

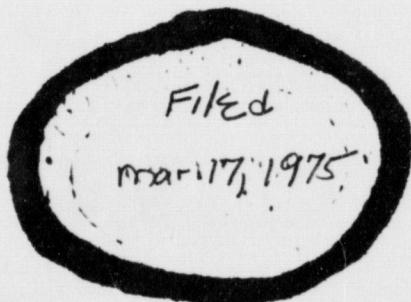
***United States Court of Appeals
for the Second Circuit***



EXHIBITS

75-7098

Exhibit



ADAMS v WEINBERGER
75-7098 Exhibit

Rossini Adams for Devlin Adams, Claimant

A/N, 054-22-7783

Peter McGinn, Wage Earner

COURT TRANSCRIPT INDEX

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Rossini Adams for Devlin Adams
(Claimant)

054-22-7783

(Social Security Number)

Peter McGinn
(Wage Earner) (Leave blank if same as above)

EXHIBITS

EXHIBIT NO.	DESCRIPTION	NO. OF PAGES	Court Transcri Page No.
1	Application for Mother's Insurance Benefits filed by Joan McGinn, dated March 3, 1970	4	60-63
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5	Application for Surviving Child's Insurance Benefits. filed by Rossini Adams, dated August 5, 1970	4	71-74
6	Copy of Disallowance Letter, dated November 10, 1970	1	75
7	Request for Reconsideration filed on behalf of claimant by Oscar G. Chase, Community Action for Legal Services, Inc., on April 2, 1971	1	76
8	Copy of Reconsideration Determination with letter to claimant, dated January 20, 1972	5	77-81
9	Earnings Record, certified March 10, 1970	1	82
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11	Copy of Certificate of Marriage, dated February 20, 1970	1	84
12	Copy of Certificate of Birth of Devlin C. Adams	1	85
13	Copy of Certificate of Baptism of Devlin Adams, dated May 27, 1971	1	86
14	Statement of Rossini Adams, dated August 5, 1970	2	87-88

Rossini Adams for Devlin Adams
(Claimant)

054-22-7783
(Social Security Number)

Peter McGinn
(Wage Earner) (Leave blank if same as above)

EXHIBITS (Continued)

<u>EXHIBIT NO.</u>	<u>DESCRIPTION</u>	<u>NO. OF PAGES</u>	<u>Court Transcript Page No.</u>
15	Statement of Peter McGinn, dated August 31, 1970	2	89-90
16	Letter by Oscar G. Chase, Asst. General Counsel, Community Action for Legal Services, Inc., dated May 6, 1971, with sworn statements by Rossini Adams, and Peter McGinn, Sr.	7	91-97
17	Report of Contact with Peter McGinn, on July 12, 1971	1	98
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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
P.O. BOX 2518, WASHINGTON, D.C. 20013

3

REFER TO:

HA:C
054-22-7733

MAR 20 1973

BUREAU OF
HEARINGS AND APPEALS

ACTION OF APPEALS COUNCIL ON REQUEST FOR REVIEW

Mrs. Rossini Adams
749 Vermont Street
Brooklyn, New York 11207

Dear Mr. Adams:

Your request for review of the administrative law judge's decision has been carefully considered by the Appeals Council. The Council's consideration of your request has included all the evidence in your case, the law and regulations applicable to your claim, the evaluation of the facts and the reasoning in this decision, and your reasons for believing your claim should be allowed.

The Appeals Council has concluded that this decision is correct. Further action by the Council would not, therefore, result in any change which would be of advantage to you. Accordingly, the administrative law judge's decision stands as the final decision of the Secretary in your case.

If you desire a review of the decision by a court, you may commence a civil action in the district court of the United States in the judicial district in which you reside within sixty (60) days from this date. See section 205(c) of the Social Security Act, as amended (section 405(c), Title 42, United States Code). If such action is commenced, the Secretary of Health, Education, and Welfare is the proper defendant.

Sincerely yours,

Herman Elegant
Member, Appeals Council

cc:

Mr. Oscar G. Chase
Attorney at Law
Brooklyn, New York 11201



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
P.O. BOX 2518, WASHINGTON, D.C. 20013

4

REFER TO:

HA:P
054-22-7783

FEB 4 1973

BUREAU OF
HEARINGS AND APPEALS

Oscar G. Chase
Brooklyn Law School
350 Joralemon Street
Brooklyn, New York 11201

Dear Mr. Chase:

Re: Mrs. Rossini Adams, 749 Vermont Street
Brooklyn, New York 11207

This is in further reply to your letter of December 5, 1972 to Administrative Law Judge Harry J. Sands, in which you requested a transcript of the hearing in your client's case.

As explained to you in our letter of January 24, 1973, the charge for preparing a transcript of the hearing is 50 cents per typewritten page (double spaced on letter size paper). It is estimated that a transcript would be 40 pages long; therefore, the charge for preparing the transcript at 50 cents per page would be \$20.00.

If you still want to obtain the transcript, it will be prepared and forwarded to you upon receipt of a money order or check in the proper amount, made payable to the Social Security Administration. Payment should be sent within 10 days from the date of this letter to the following address:

Director, Division of Administration
Budget Management Section
Bureau of Hearings and Appeals
Post Office Box 2518
Washington, D.C. 20013

If we do not hear from you within 10 days we will assume you
do not wish to purchase a copy of the transcript and will
proceed with our action on this case.

Sincerely yours,

Herman Elegant
Member, Appeals Council

cc:
Rossini Adams
Brooklyn, New York 11207



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
P.O. BOX 2518, WASHINGTON, D.C. 20013

6

BUREAU OF
HEARINGS AND APPEALS

REFER TO:

MA:P
054-22-7783

JAN 21 1973

Oscar G. Chase
Brooklyn Law School
250 Joralemon Street
Brooklyn, New York 11201

Dear Mr. Chase:

This is in reply to your letter of December 5, 1972 to Administrative Law Judge Harry J. Sands, in which you requested a transcript of the hearing in the case of Rossini Adams.

The charge for preparing a copy of the transcript of the hearing is 50 cents per typewritten page (double spaced on letter sized paper). It is estimated that a transcript would be 40 pages long; therefore, the charge for preparing the transcript at 50 cents per page would be \$20.00.

The administrative law judge in his decision has summarized the testimony and evidence in this case. You may find that the decision provides sufficient information for you to go forward with your appeal and, therefore, you may be able to avoid the expense of obtaining a transcript. If you decide you no longer want to purchase a transcript, please let us know within 10 days from the date of this letter.

If you still wish to obtain the transcript, it will be prepared and forwarded to you upon receipt of a money order or check in the proper amount, made payable to the Social Security Administration. Payment should be sent within 10 days to the following address:

Director, Division of Administration
Budget Management Section
Bureau of Hearings and Appeals
Post Office Box 2518
Washington, D.C. 20013

Sincerely yours,

Herman Elegant
Member, Appeals Council

cc:

Rossini Adams
749 Vermont Street
Brooklyn, New York 11207



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BUREAU OF HEARINGS AND APPEALS

8

REQUEST FOR REVIEW OF HEARING EXAMINER'S ACTION

Take or mail original and all copies to the District Office, Social Security Administration

CLAIMANT'S NAME

Rossini Adams for Devlin Adams

WAGE EARNER'S NAME

Peter McGinn

SOCIAL SECURITY ACCOUNT NUMBER

054-22-7733

CLAIM FOR

Entitlement to Disability Benefits (97)

Continuance of Disability Benefits (98)

Other

Child's Insurance Benefits

(Specify type claim)

I disagree with the hearing examiner's action on the above claim and request that the Appeals Council, Bureau of Hearings and Appeals, review it. My reasons for disagreement are:

See attached letter dated December 5, 1972.

Attach to this form, or forward within 10 days to the Appeals Council at the address shown below, any evidence or supplemental statement you wish to submit.

I understand the Appeals Council may deny my request for review, but if it grants the request:

I wish do not wish to appear before the Appeals Council in Washington, D.C. at my own expense.

I wish do not wish to file a brief or further written statement.

Signed by: (Either the claimant or representative should sign - Enter addresses for both)

SIGNATURE OR NAME OF CLAIMANT'S REPRESENTATIVE

Oscar Chase, Esq.

CLAIMANT'S SIGNATURE

Rossini Adams

STREET ADDRESS

335 Broadway

STREET ADDRESS

749 Vermont Street

CITY, STATE, AND ZIP CODE

New York, N.Y. 10013

CITY, STATE, AND ZIP CODE

Brooklyn, New York 11207

TELEPHONE NUMBER

DATE

TELEPHONE NUMBER

December 6, 1972

Claimant should not fill in below this line

Is this request filed within 60 days of the hearing examiner's action? Yes No

If "No" is checked: (1) attach claimant's explanation for delay; (2) attach any pertinent letter, material or information in the district office.

ACKNOWLEDGMENT OF REQUEST FOR REVIEW OF HEARING EXAMINER'S ACTION

Request for Review of Hearing Examiner's Action in this case was filed on the date shown and at the place indicated.

The APPEALS COUNCIL will notify you of its action on your request.

Appeals Council
Bureau of Hearings and Appeals, SSA
P.O. Box 2518
Washington, D.C. 20013

Date request for review was filed

December 6, 1972

Place where request for review was filed

Jamaica, New York

For the Social Security Administration

BY (Signature) *Harry J. Sandis*
(Title)

Administrative Law Judge

(Street Address)

89-31 161st Street

(City) (State)

Jamaica, New York

(ZIP Code)

11433

BROOKLYN LAW SCHOOL
250 JORALEMON STREET
BROOKLYN, NEW YORK 11201

AREA CODE 212
625-2200

December 5, 1972

Harry J. Sands, Esq.
Administrative Law Judge
Social Security Administration
89-31 161st St. (Room 404)
Jamaica, N. Y. 11432

In re: Rossini Adams
for Devlin Adams
re Peter McGinn
(Wage Earner) 054-22-7783

Dear Sir:

Please be advised that the above claimant appeals from your decision of November 20, 1972. Kindly send me a copy of the transcript of hearing so I may perfect the appeal.

Sincerely,

Oscar G. Chase
Oscar G. Chase
Attorney for Claimant

OGC:oga
cc: Mr. Rossini Adams

RECORDED & INDEXED
SOCIAL SECURITY
JANUARY 1973

DEC 6 1972

Social Security
Jamaica, New York 11432

OGC

BROOKLYN LAW SCHOOL
250 JORALEMON STREET
BROOKLYN, NEW YORK 11201

10

AREA CODE 212
625-2200

December 4, 1972

Appeals Council
Social Security Administration
Department of HEW
6401 Security Blvd.
Baltimore, Md. 21235

In re: Rossini Adams
for Devlin Adams
re Peter McGinn (Wage
Earner) C54-22-7783

Sirs:

Please be advised that the above claimant hereby
appeals from the decision of the Administrative Law
Judge dated November 20, 1972.

Sincerely,


Oscar G. Chase
Attorney for Claimant

OGC:oga

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BUREAU OF HEARINGS AND APPEALS

NOTICE OF DECISION

PLEASE READ CAREFULLY

If you disagree, in whole or in part, with the enclosed decision ~~of the hearing examiner~~, you may request the Appeals Council to review it. However, your request for review must be filed within 60 days following the date shown below.

You, or your representative, may file the request for review at the nearest office of the Social Security Administration, or you may file the request for review with the hearing office ~~or with the Appeals Council~~.

Unless you file a timely request for review by the Appeals Council, you may not obtain a court review of your case under sections 205 (g) and 1869 (b) of the Social Security Act.

This notice and enclosed copy of ~~hearing~~ ~~examiner's~~ decision mailed to the claimant on November 20, 1972 and Oscar Chase, Esq.
Community Legal Service
335 Broadway
New York, N.Y. 10013

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BUREAU OF HEARINGS AND APPEALS

12

HEARING ~~EXACCDERX~~ DECISION

In the case of

Rossini Adams for Devlin Adams

(Claimant)

Peter McGinn

(Wage Earner) (Leave blank if same as above)

Claim for

Child's Insurance Benefits

054-22-7783

(Social Security Number)

This case is before the Administrative Law Judge upon a request for hearing filed on February 10, 1972, by Rossini Adams on behalf of Devlin Adams, for child's insurance benefits on the social security account of Peter McGinn, the deceased wage earner.

The claimant, Rossini Adams, on August 5, 1970, filed application for Surviving Child's Insurance Benefits on behalf of her son, Devlin Adams, on the social security account of Peter McGinn, who died on February 18, 1970. Her application was subsequently disallowed on the ground that the deceased father must have acknowledged the child in writing, or have been ordered by a court to contribute to the child's support or have been judicially decreed to be the child's father, or have been otherwise established as the child's father and as living with the child or contributing to his support. The claimant was notified of the disallowance of her claim on November 10, 1970. A request for reconsideration was filed on her behalf by Oscar G. Chase, Esq., of the Community Action for Legal Services, Inc., on April 2, 1971. However, after reconsideration the initial disallowance was affirmed and the claimant was so notified on January 20, 1972.

STATEMENT OF ISSUES AND APPLICABLE LAW

The general issues before the Administrative Law Judge are whether or not the claimant is entitled to surviving child's insurance benefits on behalf of Devlin Adams, on the social security account of Peter McGinn, the deceased wage earner, pursuant to the pertinent provisions of the Social Security Act, as amended.

The specific issues are whether or not Peter McGinn, the deceased wage earner acknowledged in writing not less than one year before his death, or a court order or decree was made ordering him to contribute to the support of Devlin Adams, or whether he had been otherwise established as the child's father and as living with the child before his death on February 18, 1970.

Section 202(d) of the Social Security Act provides for the payment of child's insurance benefits to a qualified child of an insured individual.

Section 216(e) of the Act defines a "child" as a natural child, legally adopted child, or stepchild of an insured individual.

Section 216(h)(2) of the Act as applicable here, provides that an applicant has the status of a child of an insured individual if under the laws of the State of the insured person's domicile at the time of his death, the applicant would be recognized as his child for the purpose of inheriting his personal property as if he had died without leaving a will or if the parents went through a marriage ceremony resulting in a purported marriage which except for a legal impediment described in Section 216(h)(1)(B) of the Act, would have been a valid marriage.

Where an applicant does not meet the definition of a child under Section 216(h)(2) of the Act, the applicant may still qualify for monthly benefits on an insured person's account under Section 216(h)(3) of the Act, if the insured had acknowledged in writing that the applicant is his child, or had been decreed by a court to be the father, or had been ordered by a court to contribute to the applicant's support because applicant is his child, and such acknowledgement, court decree or court order existed at the time of the insured person's death; or if by evidence satisfactory to the Administration, the insured person is shown to be the father and he was living with or contributing, regularly and substantially, to the child's support at the time such individual died.

At a hearing held September 25, 1972, at the Chamber of Commerce Building, Room 404, 89-31 161st Street, Jamaica, Long Island, New York, the claimant appeared personally and testified. She was represented by Oscar Chase, Esq., of Community Action for Legal Services, Inc., 335 Broadway, New York, New York. Mr. Peter McGinn, Sr., father of the deceased wage earner, and friends of the claimant, Miss Judith Anglim, and Miss Ann Warren, appeared and testified in the claimant's behalf.

The material facts may be summarized as follows: On August 5, 1970, the claimant herein, Rossini Adams filed an application for child's insurance benefits on behalf of her son, Devlin Adams, as the child of Peter McGinn who died on February 18, 1970, domiciled in New York. Her claim was denied initially and upon reconsideration on the grounds that the deceased wage earner never acknowledged the child in writing, or ordered by a court to contribute to the child's support; in addition, the deceased wage earner was never judicially decreed to be the child's father, or have been otherwise established as the child's father and as living with the child or contributing to his support.

At the hearing, the claimant testified that she met the deceased wage earner in 1968, and they began living together in June 1969. She and the wage earner had set up housekeeping, however, up until the time of his death in February 1970, there were periods of separations. During those periods of separations, she would return to live with her family. The last period of separation was in January 1970 because of an argument and had not resumed living together at the time of his death. Following the wage earner's death, she gave birth to her son, Devlin Adams on March 8, 1970, at Mt. Sinai Hospital in New York City. Although the father's name was not listed on the birth certificate (Exhibit 12 in evidence), she testified that it was against the rules of the hospital to list the father's name in view of the fact that they were never ceremonially married. The child was conceived as a result of their close personal relationship and that the deceased never denied his paternity to the child. At the time of the wage earner's death, there was never any written acknowledgement by him or a court decree bearing on his paternity to the child, nor was there a court order bearing on the child's support by him. At the time of their separation in January 1970, the wage earner had planned to pay for her expenses in connection

with the child's birth and to support them after the child was born. During their separation in January 1970, she had used her own funds to support herself; however, in the period of June 1969 to January 1970, he made contributions to her support on an irregular basis. She is certain that they would have resumed living together in spite of their disagreements if he had not met a violent death. Prior to the birth of her child, she made regular clinic visits, however, he never accompanied her to the clinic, nor was his name ever noted on the hospital records to bear the expenses of the child's birth. It was her testimony that she knew the deceased wage earner was married. He would go home on weekends to see his wife and their children, but would return to their home in Manhattan when the weekend was over. There had never been any decision by either of them to enter into a marital relationship. The physician who treated her prior to the child's birth did not know the identity of the father, nor would the landlord of the apartment where she lived with the decedent. She also admitted that other relatives likewise did not know this, and she conceded time and time again that if the wage earner had not died, they would have resumed living together.

Mr. Peter McGinn testified that he is the father of the deceased wage earner, who met his death violently on February 13, 1970. With respect to the relationship between his son and Rossini Adams, the claimant herein, he knew that his son and the claimant were living together since about 1969, until several months before his death and that there had been no decision made by them to enter into a marital relationship. His son never acknowledged the child in writing or told anyone verbally that the child was his. He was told by the claimant after the child was born that his son was the father of the child. He therefore participated in the Christening ceremonies, and up to the present time contributes to the child's support with what little money he can afford.

Miss Judith Anglim testified that she is a close friend of the claimant; has visited with the claimant and the wage earner in their home; knew that the claimant was pregnant, and from overhearing conversations between the claimant and the wage earner, assumed that he was the father of the unborn child.

Miss Ann Warren testified that she is a close friend of the claimant; visited the claimant and the wage earner at their home,

- 5 -

and also heard conversations between the claimant and the wage earner, which lead her to believe that the wage earner was the father of the claimant's unborn child.

FINDINGS

After careful consideration of all the evidence of record, together with the testimony adduced at the hearing, the undersigned makes the following findings:

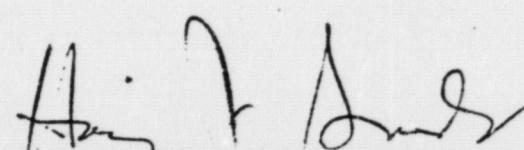
1. The wage earner died on February 18, 1970, domiciled in New York, leaving surviving his legal widow, Joan Flanagan McGinn, who he had married ceremonially in 1952 and four children, Maureen, Peter, Kevin, and Karen McGinn.
2. The decedent and the claimant, Rossini Adams, began living together in June 1969, and continued to live together up until January 1970, except for periods of separations when she would return to her mother's home. However, due to this separation, they were not living together when the wage earner died on February 18, 1970.
3. As the result of a close personal relationship with the decedent and the claimant herein, Rossini Adams, a child was born on March 8, 1970.
4. At the time of the wage earner's death, he had not acknowledged in writing that he was the father of the unborn child nor had it been decreed that the wage earner was the father of the child nor had the wage earner been ordered by a court to contribute to the child's support because the applicant was his child. There was no acknowledgement, court decree or court order existing at the time of the wage earner's death.
5. Based upon all the evidence, the claimant has failed to establish by the fair preponderance of the creditable evidence that the wage earner is shown to be the father of the applicant, that he was living with or contributing regularly and substantially to the child's support at time of his death.

-6-

DECISION

Accordingly, it is the decision of the undersigned that the claimant, Rossini Adams, based on her application filed on August 5, 1970, in behalf of Devlin Adams, on the earnings record of Peter McGinn, the deceased wage earner, is not entitled to surviving child's insurance benefits, and her application must be denied, within the meaning of the Social Security Act, as amended.

Date: November 20, 1972



Harry J. Sancs, Administrative Law Judge
89-31 161st Street, Room 404
Chamber of Commerce Building
Jamaica, New York 11432

AMENDED NOTICE OF HEARING

In the case of

Rossini Adams for Devlin Adams
(Claimant)

Peter McGinn
(Wage Earner) (Leave blank if same as above)

Claim for

Child's Insurance Benefits

054-22-7783

(Social Security Number)

TO: Mrs. Rossini Adams
749 Vermont Street
Brooklyn, N.Y. 11207

Hearing in this case which was scheduled for 2/21/72 at Jamaica, New York
(Date) (Address)

will be held instead on the 25th day of Sept. 1972 at 11:00 o'clock in room 104
a.m.

of Chamber of Commerce Building, 89-31 161st Street
(Number and Street)

Jamaica, New York 11432
(City) (State)

IMPORTANT—Please sign and return at once the enclosed postal card notifying me whether you will be present at the above time and place. No postage is required on this card.

Your hearing will be conducted by an Administrative Law Judge, formerly called a Hearing Examiner."

<i>Harry J. Sands</i>		Harry J. Sands, Hearing Examiner
Date	Telephone Number	Mail Address: Bureau of Hearings and Appeals Social Security Administration 89-31 161st Street Jamaica, New York 11432
September 15, 1972	212 CL 7-3700	
c: Representative (Name and Address)		

Cesar Chase, Esq., 225 Broadway, New York, N.Y. 10013
District Office (Address)

114 Pennsylvania Avenue, Brooklyn, New York 11207
Enclosure

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BUREAU OF HEARINGS AND APPEALS

19

AMENDED NOTICE OF HEARING

In the case of

Rossini Adams for Devlin Adams
(Claimant)

Peter McGinn
(Wage Earner) (Leave blank if same as above)

Claim for

Child's Insurance Benefits

054-22-7783

(Social Security Number)

TO:

Mrs. Rossini Adams
749 Vermont Street
Brooklyn, New York 11207

The hearing in this case which was scheduled for 10/2/72 at Jamaica, New York
(Date) (Address)

will be held instead on the 21st day of September 1972 at 11 a.m. o'clock in room 404

of Chamber of Commerce Building, 89-31 161st Street
(Number and Street)

Jamaica, New York, 11432
(City) (State)

IMPORTANT—Please sign and return at once the enclosed postal card notifying me whether you will be present at the above time and place. No postage is required on this card

Hearing Examiner	Harry J. Sands Admin. Law Judge	Mail Address
Date	Telephone Number	Chamber of Commerce Building Room 404, 89-31 161st Street Jamaica, New York 11432
Sept. 11, 1972	657-8700	
cc: Representative (Name and Address)		
<u>Oscar Cason, Esq., 805 Broadway, New York, N.Y. 10013</u> District Office (Address)		
<u>114 Pennsylvania Avenue, Brooklyn, New York 11207</u> Enclosure		

AMENDED NOTICE OF HEARING

In the case of

Rossini Adams
(Claimant)

Claim for

Child's Insurance Benefits

Peter McGinn
(Wage Earner) (Leave blank if same as above)

054-22-7783

(Social Security Number)

TO: Miss Rossini Adams
749 Vermont St.
Brooklyn, N.Y. 11207

The hearing in this case which was scheduled for 8/10/72 at Jamaica, New York
(Date) (Address)

will be held instead on the 2nd day of Oct. 1972 at 11:00 o'clock in room 104
a.m.

of Chamber of Commerce Building, 89-31 161st Street
(Number and Street)

Jamaica, New York 11432
(City) (State)

IMPORTANT—Please sign and return at once the enclosed postal card notifying me whether you will be present at the above time and place. No postage is required on this card.

Hearing Examiner
Mary J. Sands

Date <u>July 27, 1972</u>	Telephone Number <u>212-917-73700</u>
cc: Representative (Name and Address) <u>Oscar Chase, Esq., 225 Broadway, New York, N.Y. 10013</u> <u>District Office (Address)</u>	

Mail Address: Harry J. Sands, Hearing Examiner
Bureau of Hearings and Appeals
Social Security Administration
89-31 161st Street
Jamaica, New York 11432

114 Pennsylvania Avenue, Brooklyn, New York 11207
Enclosure

NOTICE OF HEARING

In the case of

Rossini Adams

(Claimant)

Peter McGinn

(Wage Earner)

Claim for

Child's Insurance Benefits

054-22-7783

(Social Security Account Number)

TO: Miss Rossini Adams
749 Vermont St.
Brooklyn, N.Y. 11207

Pursuant to your written request and the provisions of Sections 205(b) and 1869(b) of the Social Security Act, a hearing will be held by the undersigned, a Hearing Examiner of the Bureau of Hearings and Appeals,

a.m.

on the 12th day of Sept. 1972 at 11:30 o'clock in Room 404 of
Chamber of Commerce Building, 89-31 161st Street, Jamaica
(Number and Street) (City)
New York 11432
(State)

The general issues to be determined are whether or not Devlin Adams is entitled to
child's insurance benefits.

The specific issues on which findings will be made and conclusions will be reached are whether or not
there was ever a written acknowledgment or court order bearing on the
child's paternity to the wage earner at the time of his death nor was
there at that time, a court order bearing on the child's support by the
wage earner. Whether or not the child was living with the claimant and *

READ THE OTHER SIDE OF THIS NOTICE FOR IMPORTANT INFORMATION REGARDING HEARING

REMARKS:

* whether or not he was contributing to the child's support at the time
of his death.

IMPORTANT -- Please sign and return at once the enclosed postal card notifying me whether you will be present
at the above time and place. No postage is required on this card.

Hearing Examiner  Harry J. Sands	Mail Address Harry J. Sands, Hearing Examiner Bureau of Hearings and Appeals Social Security Administration 89-31 161st Street Jamaica, New York 11432
Date July 26, 1972	Telephone number 212 OL 7-8700

c: Representative (Name and Address)

Oscar Chase, 335 Broadway New York, N.Y. 10013

District Office (Address)

114 Pennsylvania Ave Brooklyn, New York 11207

IMPORTANT INFORMATIONAppearance at Hearing

The date and time of this hearing have been set aside especially for you. Your failure to appear without good reason may cause dismissal of your Request for Hearing. Even though there is good reason, any postponement will delay disposition of your case. If an emergency arises preventing your appearance after you mail the postal card stating that you will be present, notify the Hearing Examiner promptly and give your reasons. Also, advise the Hearing Examiner of the earliest date after which he can reschedule your case for hearing.

Conduct of Hearing

The law places on you the burden of submitting evidence to support your claim. Bring to the hearing all evidence not already presented in your case.

You will have an opportunity to examine the documentary evidence on the day of the hearing. If you wish to examine it before the day of the hearing you may do so at the Hearing Examiner's office.

At the hearing the Hearing Examiner will inquire fully into the matters at issue. You may present evidence either in the form of written documents or the testimony of witnesses, or both. Your testimony and that of any witnesses will be under oath or affirmation, and a verbatim record of the proceedings will be made. You may suggest findings of fact or conclusions of law and present arguments orally or in writing.

Representation

While it is not required, you may be represented at the hearing by an attorney or other qualified person of your choice, if you desire assistance in presenting your case. Any fee which your representative wishes to charge for his services in your case must be approved by the Bureau of Hearings and Appeals. Your representative must petition for fee approval at the conclusion of his services, and furnish you with a copy of his petition.

If you are found entitled to benefits and your representative is an attorney, 25 percent of your back benefits will normally be withheld for payment to your attorney upon approval of his fee. If the approved fee is less than the 25 percent we withhold, we will pay the difference directly to you. If the approved fee is more than 25 percent, payment of the difference is a matter to be settled between you and your attorney.

If your representative is not an attorney, none of your benefits will be withheld; and payment of the fee which is approved is a matter to be settled between you and him.

If you have any other questions, your local Social Security office will be glad to help you.

REQUEST FOR HEARING

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Take or mail original and all copies to your local Social Security office.

CLAIMANT'S NAME <p>Rossini Adams</p>	WAGE EARNER'S NAME (Leave blank if same as above) <p>Peter McGinn</p>
SOCIAL SECURITY NUMBER <p>054-22-7783</p>	

- CLAIM FOR
 Entitlement to Disability Benefits (97)
 Continuance of Disability Benefits (98)
 Other

Child's Benefits (R.A.I.)

(Specify type claim)

I disagree with the determination made on the above claim and request a hearing before a hearing examiner of the Bureau of Hearings and Appeals. My reasons for disagreement are: 1. It does not compare with the evidence. 2. It violates the S.S. Security Act. 3. the U.S. Constitution.

Check one of the following:

- I have additional evidence to submit.
(Attach such evidence to this form or forward to the Social Security Office within 10 days.)
 I have no additional evidence to submit.

Check ONLY ONE of the statements below.

- I wish to appear in person before the hearing examiner.

- I waive my right to appear and give evidence, and hereby request a decision on the evidence before the hearing examiner.

Signed by: (Either the claimant or representative should sign-Enter addresses for both. If claimant's representative is not an attorney, complete Form SSA-1696)

SIGNATURE OR NAME OF CLAIMANT'S REPRESENTATIVE

CLAIMANT'S SIGNATURE

ADDRESS

335 Broadway

ADDRESS

749 Vermont St.

CITY, STATE, AND ZIP CODE

NY NY 10013

CITY, STATE, AND ZIP CODE

Brooklyn, N.Y.

TELEPHONE NUMBER

966-6600

DATE:

Feb 9 1972

TELEPHONE NUMBER

11207

Claimant should not fill in below this line

Is this request filed within 6 months of the reconsideration determination? Yes No
If "No" is checked: (1) attach claimant's explanation for delay, (2) attach any pertinent letter, material, or information in the Social Security Office.

ACKNOWLEDGMENT OF REQUEST FOR HEARING

Your request for a hearing was filed on 2/10/72 at 114 Pennsylvania Avenue, Brooklyn, New York 11207. The hearing examiner will notify you of the time and place of the hearing at least 10 days prior to the date which will be set for the hearing.

Hearing Examiner Copy	TO: <input checked="" type="checkbox"/> Hearing Examiner <u>Jamaica, NY</u>
Claim File Copy	TO: <input type="checkbox"/> Hearing Examiner-Disability file in BDI TELETYPE BDI, BALTIMORE, MD. <input checked="" type="checkbox"/> Payment Center <u>N.Y.</u> (Location) <input type="checkbox"/> BHI _____ (Location) <input type="checkbox"/> DFC (BRSI) <input type="checkbox"/> CWAB (BDPA)
	Interpreter Needed _____ (Language)

For the Social Security Administration

By: Betty Kaplan (Signature) (Title)
114 Pennsylvania Avenue
(Street Address)
Brooklyn, New York 11207
(City) (State) (ZIP Code)

Servicing District Office Code 139

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BUREAU OF HEARINGS AND APPEALS

24

TRANSCRIPT

In the case of

Claim for

Rossini Adams for Devlin Adams
(Claimant)

Child's Insurance Benefits

Peter McGinn
(Wage Earner)

054-22-7783

(Social Security Account Number)

Hearing Held

at
89-31 161 Street, Room 404
Jamaica, New York 11432

on

September 25, 1972

APPEARANCES: Rossini Adams, Claimant
Peter McGinn, Sr., Witness
Judith Anglim, Witness
Elizabeth Ann Warren, Witness
Oscar G. Chase, Esq., Attorney for Claimant

HARRY J. SANDS, ADMINISTRATIVE LAW JUDGE
Hearing Examiner

CHRISTINE M. LEE
Hearing Assistant

INDEX OF TRANSCRIPT

In the case of

Account Number

Rossini Adams, claimant

Peter McGinn, Wage Earner

054-22-7783

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Testimony of Judith Anglim	Commencing p.	24
Testimony of Elizabeth Ann Warren	Commencing p.	31

(The following is a transcript of the hearing held before Harry J. Sands, Administrative Law Judge, of the Bureau of Hearings and Appeals, Social Security Administration, Department of Health, Education, and Welfare, on September 25, 1972, at Jamaica, New York, in the case of Rossini Adams in behalf of Devlin Adams, based on the earnings record of Peter McGinn, deceased wage earner, social security account number 054-22-7783. The claimant, Rossini Adams, appeared in person and was represented by her attorney, Oscar G. Chase, Esq., of the Community Action for Legal Services, Inc.)

(The hearing commenced at 11:10 a.m., on September 25, 1972.)

OPENING STATEMENT BY ADMINISTRATIVE LAW JUDGE:

I have to go through some preliminary statements, Mr. Chase, so you will have to bear with me. I am an Administrative Law Judge for the Federal Government, and I have taken some material papers out of the claims file of the deceased wage earner and have marked them as proposed exhibits 1 to 20, subject to any objection that you may have when the hearing starts.

It is my function to take the testimony of this lady in the claimant's case and any other witnesses that you may produce, and we are not bound by strict rules of evidence. They can make hearsay statements anybody told them; present any proof that you have, any written proof, any kind of paper that you would like to have submitted and marked as an exhibit in evidence. You will have a right after the hearing is closed to sum up your client's case. You also have a right to submit a memorandum of law if that is what you desire to do.

Now, I've taken these papers out of the file and marked them proposed exhibits 1 to 20, and I have to ask you, Mr. Chase, if you

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have any objection that proposed exhibits 1 to 20 be marked as exhibits in evidence in this case?

MR. CHASE: No, I have none.

ADMINISTRATIVE LAW JUDGE: Proposed exhibits number 1 to 20 will be marked as exhibits in evidence in this case. Do you have any papers you want to submit outside of testimony by witnesses?

MR. CHASE: Well, the certificate of baptism is already in the record.

ADMINISTRATIVE LAW JUDGE: Yes, I think so.

MR. CHASE: And there is a copy of it; you don't need the original - a certified copy?

ADMINISTRATIVE LAW JUDGE: Isn't this a posthumous child?

MR. CHASE: Yes.

The claimant, ROSSINI ADAMS, having been first duly sworn, testified as follows:

EXAMINATION BY ADMINISTRATIVE LAW JUDGE:

Q. What is your name and where do you live?

A. My name is Rossini Adams, and I live at 234 East 14th Street.

Q. You're the claimant in this case? You will have to talk up because it has to get on that machine.

A. Yes.

ADMINISTRATIVE LAW JUDGE: Allright, go ahead counselor.

EXAMINATION BY MR. CHASE:

Q. How long did you know the deceased before he died?

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A. Two years.

Q. And how long were you involved in a close relationship with him?

A. During that time.

Q. Did you ever live with him?

A. Yes.

Q. For how long?

A. It was off and on.

RE-EXAMINATION BY ADMINISTRATIVE LAW JUDGE:

Q. When did the relationship start?

A. Well, I met Peter in '68, and we had started living together the later part of '68, and we had started living together in '69 - the latter part of '69.

Q. Where?

A. At 44 West 55th Street.

Q. In an apartment there?

A. It was upstairs over his business.

Q. You mean where he worked?

A. Yes.

RE-EXAMINATION BY MR. CHASE:

Q. Was it an apartment?

A. Well, he claimed it was. It was an efficiency apartment.

Q. It was an apartment?

A. Yes.

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Q. Did it have a bathroom?

A. Yes - a living area and a kitchen.

Q. When did you inform him that you were pregnant with his child?

ADMINISTRATIVE LAW JUDGE: Wait a minute, counselor. Get the whole relationship.

RE-EXAMINATION BY ADMINISTRATIVE LAW JUDGE:

Q. At that time he was married?

A. Yes.

Q. And do you know where his wife and family lived?

A. Well, we never discussed it.

Q. And this relationship you say started in 1969. Do you mean that in 1969 you and he took up housekeeping in this apartment?

A. Well, sort of.

Q. Well, did you or didn't you?

A. Yes, yes.

Q. And did you stay overnight?

A. Yes.

Q. On a regular basis?

A. Yes.

Q. Did he go home weekends to see his wife and his children?

A. Yes, sure.

RE-EXAMINATION BY MR. CHASE:

Q. Every weekend?

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Yes, about every weekend.

EXAMINATION BY ADMINISTRATIVE LAW JUDGE:

Now, this relationship continued, as you said before, on an
tent basis because at some time I assume you had a disagree-

Yes, yes.

Did you have any other address for yourself?

Yes.

Where?

672 Pennsylvania Avenue.

Where was that?

In Brooklyn.

Well, how often would you go home?

Not very often.

EXAMINATION BY MR. CHASE:

Whose apartment was it at Pennsylvania Avenue?

It wasn't an apartment - my mother's home.

And she maintained a room for you there, Rossi?

Yes.

EXAMINATION BY ADMINISTRATIVE LAW JUDGE:

When was the child born?

'70, March, 1970.

How long had you been living with him before the birth of the

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A. As I said, we were living off and on. We broke up completely.

Q. When?

A. About two months before Devlin was born.

RE-EXAMINATION BY MR. CHASE:

Q. What do you mean by completely?

A. Well, I just stopped living with him.

Q. Did you continue to see him socially?

A. Yes. I came maybe once or twice a week to have dinner with him and we talked.

Q. Did you intend to re-establish a relationship with him?

A. I don't know.

RE-EXAMINATION BY ADMINISTRATIVE LAW JUDGE:

Q. Well, at that time, you were what, seven months pregnant, and he knew you were pregnant?

A. Well, yes.

Q. Was there any conversation between you and he about the pregnancy and the child? Go ahead, counselor, you ask the question.

A. No, I'll answer the question if you give me some time.

What I was going to say is yes, we did talk about it.

Q. And what was said?

A. Well, I'm going to tell you. The reason that we did break up is because I stayed depressed all the time. We had our personal conference, him and I, and I thought it better if I went back home and stayed with my mother due to my pregnancy, and he said to me if I didn't want the child after I had it, to give it to him, and I said that's not what I want; I want my baby, and this is why I went back home to stay at my mother's.

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RE-EXAMINATION BY MR. CHASE:

Q. Did he ever give you any money?

A. Yes.

Q. Was he intending to give you money for just hospital bills?

A. Yes, yes. We sat down and we talked about it - how much it would cost, and he said it would be around a thousand dollars, and whatever money it was, for me not to worry about it, and I didn't at that point.

Q. For you not to worry about it, what was the implication there?

A. That it would be taken care of.

Q. Was it?

A. Yes.

RE-EXAMINATION BY ADMINISTRATIVE LAW JUDGE:

Q. Did you discuss what hospital you were going to go into?

A. Yes.

Q. What hospital?

A. Mt. Sinai.

Q. In Manhattan?

A. Yes.

Q. Did you go to Mt. Sinai in Manhattan yourself?

A. Yes.

Q. Why didn't he go with you?

A. Well, when I went first of all, it was during working hours,

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and you know he did have a place of business, and I didn't push him or anything like that other than to say once I had the baby, he would be there, or that last week, so that we could talk to the doctors, you know, and get the name and everything straightened out, and so I just didn't press it any further. You know, people take things for granted. I didn't know he was going to get killed.

Q. Were you doing any work when you first went to live with the wage earner in this case?

A. Yes.

Q. What kind of work were you doing?

A. Well, the same work I'm doing now, bookkeeping.

Q. And after you were pregnant for a few months, did you stop working?

A. No, I continued to work.

Q. Straight through?

A. Yes. I worked straight through, yes.

Q. Well, when you were living together, did he contribute any money to your support?

A. Oh, yes.

Q. How much?

A. Well, you know he would just come and give me maybe \$25 or \$30 or he would ask me if I wanted money.

Q. How often would he do that?

A. Whenever he wanted to. I never had to ask him for anything.

If I really needed some money, I could just come to him and tell him I need the money, and he'd just give it to me.

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Q. Let me ask you this question. The seven months of your pregnancy, tell me how much money he gave you.

A. I would say roughly \$200 to \$300.

Q. In those seven months?

A. Yes, because I needed \$100 to put down at Mt. Sinai, and he gave me that.

Q. How did he give it to you, in cash?

A. Yes, in cash. He gave me some cash.

Q. How was Mt. Sinai paid, by cash?

A. Most of it, but you know the hundred dollars was registration fee.

RE-EXAMINATION BY MR. CHASE:

Q. But it was his intention to use that hundred dollars for the hospital?

A. Right, and not only that, when I still got the application in the hospital, I had put his name down on everything, and I really wanted to get those records to give to the Social Security. Remember we tried to get them, the summaries, and they said that they keep the records and after two years they throw them out.

RE-EXAMINATION BY ADMINISTRATIVE LAW JUDGE:

Q. Did they ask you to have him sign the records for the hospital?

A. No.

Q. He never did sign?

A. No.

Q. How about - was there any check ever made out by the deceased wage earner to the Mt. Sinai Hospital?

A. No.

Q. How about the doctor who was taking care of you, what was his name?

A. Dr. Cohen - Carmel Cohen.

Q. And did you go to see the doctor, first to confirm the fact that you were pregnant, and was the wage earner with you at any time?

A. No. He didn't have to confirm it because when I went to him I was four months pregnant and Peter had--

Q. Yes, but how about the fact that the wage earner was the father of this unborn child?

A. I don't know. I don't quite understand what you're saying.

RE-EXAMINATION BY MR. CHASE:

Q. In other words, did he ever confirm to the doctor that he was the father?

A. No. My doctor never even asked the question.

RE-EXAMINATION BY ADMINISTRATIVE LAW JUDGE:

Q. I know, but when you go into a hospital, especially for a maternity case--

A. You take an application.

Q. It has to be signed by both parties. That wasn't done here.

RE-EXAMINATION BY MR. CHASE:

Q. Do you remember at the time filling out the application?

Do you remember whether you signed it or not? Did you send in the application?

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A. No, because I didn't feel it necessary. I just sent it in and they accepted it.

Q. Now, you said at the time you decided to go back to your mother's house a couple of months before delivery date. Did you leave any personal affects at the apartment you shared with the deceased?

A. Yes.

Q. Was it your intention to return there?

A. Maybe it was. I don't know. At the time, It wasn't my intention.

Q. Was it his intention as far as you understood, to help support the child after the--

ADMINISTRATIVE LAW JUDGE: Counselor, in the first place that's an objectionable question. You can't prove the intent of what she thinks--

MR. CHASE: We are not under the strict rules of evidence.

ADMINISTRATIVE LAW JUDGE: I understand that, but I'm going to let her answer it, but it hasn't got much weight.

MR. CHASE: Alright, well. Please answer the question.

CLAIMANT: You must have all the answers.

ADMINISTRATIVE LAW JUDGE: I'm letting you answer it.

MR. CHASE: Is there anything else that you would like to say, no?

CLAIMANT: Only that I'm not doing anything more here than his

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father would have wanted me to do, and I'm not asking for nothing that's not due him.

RE-EXAMINATION BY ADMINISTRATIVE LAW JUDGE:

Q. Did he ever in any kind of way, in written form, in either a letter or a document of any kind, say that he was the father of your unborn child?

A. No, only verbally. He accepted that responsibility.

Q. Did he have - he was in the armed forces during the war?

A. Yes.

Q. Did he have what we call G. I. Insurance? Do you know what G. I. Insurance was?

A. Yes, G. I. Insurance.

Q. Do you know whether or not he ever wrote to the Veterans Administration?

A. No.

Q. Was he getting any benefits from the VA?

A. No, not that I know of.

Q. Did you ever - after his death, did you discuss this situation with his legal wife?

A. No, I had no reason to.

Q. Now, this place of business, did he own this business himself?

A. I think it was a part ownership.

Q. Did you know his partner?

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A. Yes.

Q. As far as you know, did the wage earner ever discuss this with his partner?

A. Well, he didn't have to. His partner could see, you know, that I was very much pregnant, and he knew our relationship.

Q. Did you work in this restaurant?

A. No, I didn't.

Q. Well, did this partner visit with you socially and with the wage earner?

A. Yes, we sat down occasionally and had supper.

Q. Was there any discussion between the partners as to the status of this unborn child in your presence?

A. Yes. What can I say, you know.

Q. I don't want you to say anything. I just want the facts.

A. It's nothing that we came right out and said. I mean you could see that I was very much pregnant; he knew of our relationship, you know.

Q. Now, the child was baptized in a Catholic Church?

A. Yes.

Q. What church was it, in Brooklyn or Manhattan - Pennsylvania Avenue?

A. No, in Brooklyn, St. Gabriel's - St. Gabriel's Church, 749, I think, New Lots Avenue.

Q. Does the baptismal certificate show Mr. McGinn as the father?

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A. Yes.

Q. Was there ever any conversation between you and Mr. McGinn after you learned - after you started living with him - after you became pregnant about marriage between the two of you?

A. He had mentioned it to me, and I never gave him an answer.

Q. Well, the disagreement between the two of you, was that based upon the fact that you wanted him to marry you and he didn't?

A. I just stated that he had asked me.

Q. No, but I'm asking you another question. I know what you said.

A. No.

Q. Well, what was the disagreement about, that you finally made up your mind that you were going to leave him?

A. Because I didn't like his class of friends, that's all. I did not like his friends, and I couldn't ask him to give up his friends for me so I just felt that it was aggravating me and, you know, I didn't have to be a part of it.

Q. You were never married, were you?

A. No.

Q. In what name was the child baptized?

A. Adams.

Q. Why wasn't it baptized as McGinn?

A. Would that make a difference?

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Q. I'm not asking that. I'm just asking you a question. Tell my why the child was baptized--

A. Because on his birth certificate it has Adams. His father's name is on the birth certificate, but I did not put Devlin's name.

ADMINISTRATIVE LAW JUDGE: Anything else, counselor? Alright, call your next witness, counselor.

The witness, PETER MC GINN, SR., having been first duly sworn, testified as follows:

EXAMINATION BY ADMINISTRATIVE LAW JUDGE:

Q. Give your name and address for the record, please.

A. Peter McGinn, M-C-G-I-N-N.

Q. Where do you live, Mr. McGinn?

A. 3309 31st Avenue, Astoria, Long Island.

ADMINISTRATIVE LAW JUDGE: Go ahead, counselor.

EXAMINATION BY MR. CHASE:

Q. Mr. McGinn, how long did you know Miss Adams? How long have you known her?

A. Oh, a couple of years.

Q. Did you know whether or not she was involved in a relationship with your son?

A. Well, I used to see her up the apartment quite often - some days, day in and day out, you know.

Q. The same apartment on 55th Street that she mentioned?

A. This is on 54th Street.

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Q. Did he mention to you that he was the father of her child?

A. No.

Q. Did you ask him about it?

A. I--

ADMINISTRATIVE LAW JUDGE: Counselor, did you read his statement which is an exhibit?

MR. CHASE: His first statement?

ADMINISTRATIVE LAW JUDGE: The statement I got, exhibit 15. Why don't you read it and then ask the questions from that statement.

MR. CHASE: Well, did you read the other statement, No. 20?

ADMINISTRATIVE LAW JUDGE: No, look at that statement and we'll get to the next one. You can have him try to correct it if there are any inconsistencies in that statement. For an example, the very first statement. He said he didn't know anything about a child until after the child was born.

MR. CHASE: Well, what about - since Mr. Sands raises this first statement--

ADMINISTRATIVE LAW JUDGE: No, I'm reading the statement. Ask him about--

MR. CHASE: I'm - it's my witness, sir.

ADMINISTRATIVE LAW JUDGE: Allright, go ahead.

RE-EXAMINATION BY MR. CHASE:

Q. This is a statement you made on August 31, 1970, that you

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had no knowledge that your son had a child out of wedlock--

ADMINISTRATIVE LAW JUDGE: No, show him the statement, don't read it, counselor.

RE-EXAMINATION BY ADMINISTRATIVE LAW JUDGE:

Q. You didn't know anything about a child until your son was dead?

A. That is right. I knew that--

Q. You knew they were living together, and you also knew that she was pregnant before your son died?

A. Yes.

Q. Did you ever talk with your son about the pregnancy?

A. I told him about - after all I said to him, listen, you know you're a married man. You know you can't be fooling around. He said, "Mind your own business."

Q. He told you to mind your own business? Did you ask him whether or not he was the cause of this lady's pregnancy?

A. I had an idea he was.

Q. Did you ever ask your son?

A. No, I didn't ask him. We were not close as far as things like that. He was a man; he's not a boy; and I just berated him for having this woman up in his apartment all of the time, and he says to me to mind my business.

ADMINISTRATIVE LAW JUDGE: Allright, counselor.

RE-EXAMINATION BY MR. CHASE:

Q. Did you know Miss Adams well before - while he was going out with her?

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A. Well, I knew her from going up and down; whether or not--

Q. Was she going up and down with other men?

A. No, no, no. Other men couldn't go up there. It was his own apartment upstairs.

Q. In other words, he was the only man with whom she had relationship?

A. That's the only one I--

Q. You attended the baptism?

A. That is right.

Q. Did you acknowledge that the child was your grandson at the time?

A. Yes.

Q. Why?

A. Well, I seen the girl was pregnant after, and I knew she was pregnant; of course I seen her the latter part of the time, and I seen her going up and down the place day in and day out to the apartment - coming around the place and sitting down eating and different things, so I assumed this anyway.

Q. So you knew they were living together?

A. Well, whatever you call it. They were constantly there.

Q. Did she ever spend the night there? Do you know?

A. Well, I wasn't there at night - that late.

Q. So that you're satisfied that the child is your grandson?

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A. Well, I wanted--

ADMINISTRATIVE LAW JUDGE: How material is that. He's satisfied. He happens to be a good man. He's trying to do something for this girl. How material is it that he's satisfied?

MR. CHASE: The point of the matter is that he happened to be crazy, and we all have to be crazy not to be satisfied that this child was--

ADMINISTRATIVE LAW JUDGE: Apparently the law at this time is not satisfied and that's why you're here.

MR. CHASE: Hopefully that that injustice will be rectified at this hearing.

ADMINISTRATIVE LAW JUDGE: I know, counselor, but there are certain things a man does even if this is a meretricious relationship. You must admit for the record that this was a meretricious relationship. Not only that, but your witnesses even said that it was a meretricious relationship.

MR. CHASE: No one used that word except for you.

ADMINISTRATIVE LAW JUDGE: Well, isn't it meretricious; it's not legal?

MR. CHASE: The man was separated from his--

ADMINISTRATIVE LAW JUDGE: Wait a minute, was it legal? I don't care if he was separated forty times, was it legal? What would you call it?

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MR. CHASE: I'd call it - it was a relationship between a married--

ADMINISTRATIVE LAW JUDGE: It was a meretricious relationship. She went home any time she felt like it. She didn't live there.

MR. CHASE: They weren't married.

ADMINISTRATIVE LAW JUDGE: That's right. That makes it meretricious.

MR. CHASE: You're free to use whatever words you choose.

ADMINISTRATIVE LAW JUDGE: Counselor, look, there are certain things that men do, and just like this witness has said; he asked his son about it, and his son told him to mind his own business. Now, there are certain other things. When you go to an obstetrician with your wife or with your girlfriend, I don't care who it is, the man goes normally. If he's making arrangements to go into a hospital, the average hospital requires that both the father and the expected mother sign the admission record of the hospital regardless of whether the admission is going to take place. None of this was done by the wage earner.

MR. CHASE: Well, that's true. If all that had been done by the wage earner, it would be a very easy case. But it's not an easy case; it's a hard case, but nonetheless, it's not some kind of scheme to defraud the Government.

ADMINISTRATIVE LAW JUDGE: Oh come on now, counselor. You know better than to say something like that. It's no scheme on anybody's part.

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MR. CHASE: That's right.

ADMINISTRATIVE LAW JUDGE: This girl gave birth to a child out of her relationship with this man.

MR. CHASE: Right.

ADMINISTRATIVE LAW JUDGE: But we don't - but we have quite a few intervening situations that she lived with him; she had arguments with him; she went to her mother's home; she went back to live with him; and two months before the child was born, she was not living with him, and I think she said she wasn't going to go back to him.

MR. CHASE: Well, that's a different issue as to whether or not--

ADMINISTRATIVE LAW JUDGE: Well, how about this other question that arises in this case and that's the question of support. In this case it couldn't have been the child because the child wasn't born. It would have to be the monies for the expenses of the unborn child.

MR. CHASE: Right.

ADMINISTRATIVE LAW JUDGE: Now, what proof have you got except her word?

MR. CHASE: Well, I have another witness waiting outside and I want to bring her in.

ADMINISTRATIVE LAW JUDGE: Counselor, this man comes in here, and he comes in here because he suspects that his son was the father of this child, and suspecting that and knowing that a child was born, he is now trying to do the next best thing insofar as he is concerned.

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No. 1, he's apparently a practicing Catholic, so he has this little boy baptized in the Catholic church. No. 2, he apparently has been contributing some monies because there is a thought in his mind that this is really my grandchild, and that may be good morally insofar as he is concerned, but we have a legal proposition with the law - that's set down in the law. So far you have not proved, as far as I'm concerned, that any of the requirements of the law, except for the last paragraph, any evidence which the Secretary deems is material.

MR. CHASE: The only evidence - we have no other documents--

ADMINISTRATIVE LAW JUDGE: He happens to be a very unusual man.

MR. CHASE: He happens to be in my view a very praiseable man, but I think we should call the next witness.

ADMINISTRATIVE LAW JUDGE: Let me see his statement. This is a very unusual man. I don't doubt that he's telling me the absolute truth, but that doesn't come within the meaning of the law. No one is trying to accuse your client of trying to defraud anybody.

RE-EXAMINATION BY ADMINISTRATIVE LAW JUDGE:

Q. Let me ask you something, Mr. McGinn. You finally gave another statement which is in direct contradiction to the one I showed you when you said - the one I showed you originally, you said your son didn't tell you anything about the child. Not until after the death the mother told you that. Now you say, a statement signed on April 30, 1971, that on January, 1970, your son told you that he was the father of a child which would be born to Miss Adams. This statement

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is correct?

A. Not to my knowledge. He didn't tell me. What I told you is what I said. Who did I give that statement to?

Q. I don't know but here it is. There's an affidavit here. That's what the lawyer was referring to when he asked whether I saw your second statement. This is the first, the second one is different.

A. I don't know.

Q. One is the fact. Didn't you know about - you knew she was pregnant?

A. I knew she was pregnant. I knew he was with her as I say what I told you there.

Q. Let me ask you. Were you present at the baptism?

A. Yes.

Q. Why wasn't the child baptized in your son's name?

A. I had nothing to do with that. That's the girl's business. I was there.

Q. Did you know the child was baptized in the name of Adams?

A. I really didn't. I was at the baptismal, but I didn't know at the time. I never asked, you know. I assumed that. You don't ask that question. You don't bother.

Q. Is Mrs. McGinn, Sr., alive?

A. My wife is alive, yes.

Q. Does she accept this child?

A. Well, I'm married the second time.

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Q. Well, how about your present wife?

A. My present wife has a pretty good idea. The first wife, I don't know.

ADMINISTRATIVE LAW JUDGE: Allright, bring your next witness.

I want your client in here, counselor. She's not suppose to leave the hearing room. You can stay here if you want, sir, unless you're in a hurry to go.

The witness, JUDITH ANGLIM, having been first duly sworn, testified as follows:

EXAMINATION BY ADMINISTRATIVE LAW JUDGE:

Q. Give your name and address for the record, please.

A. Judith Anglim.

Q. How do you spell your second name?

A. A-N-G-L-I-M.

Q. Where do you live?

A. Brooklyn, New York.

ADMINISTRATIVE LAW JUDGE: Allright, counselor.

EXAMINATION BY MR. CHASE:

Q. How long have you known Miss Adams?

A. For approximately three and a half years.

Q. And did you know the deceased, Mr. McGinn?

A. Yes, I did.

Q. Could you tell us how you knew him and what the conditions of your relationship were?

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A. I came here from the West Indies. I went to Rhodes School on 54th Street and 5th Avenue, and I met Rossi during this period of time when she was enrolled also. We happened to have classes together. After a while we got to be close friends. We would visit each other and then through her sometimes we would stop by after school at the restaurant Peter owned on 54th Street, not far away from the school. That's how I met Peter.

Q. Did you socialize with them occasionally?

A. Occasionally, yes.

Q. And you knew they had a close relationship?

A. Yes, I did.

Q. Did he ever discuss with her or with you - discuss with her while you were there the condition of her pregnancy and so forth?

A. Well, he really didn't discuss it with me. Occasionally while I was in the restaurant he would come to the table where we were sitting, and they would discuss between themselves how she was, how she was doing. I happen to overhear him refer to some christening papers when she got pregnant, one night. They were discussing christening papers.

Q. Did he talk as though he was the father of the child?

A. Yes, he did.

RE-EXAMINATION BY ADMINISTRATIVE LAW JUDGE:

Q. What did he say?

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A. He said that if she made the arrangements to get the christening papers together that she could bring them over to him to have him sign them and it wouldn't be necessary for him to go to the church with her.

Q. Well, how did that conversation come about when you were there?

A. Well, she would usually stop in there in the evenings after school, and sometimes I'd stop with her, and they would talk. He was employed in the restaurant, attending to his customers, so occasionally when he had the time he would stop by at the table.

Q. What did he say? Say it again.

A. I said he asked her in reference to the christening papers, if it was necessary that he would have to go with her to the church to make the arrangements for the christening of the child, or if she would.

Q. What did she say to that?

A. She said if he had the time she would like for him to go.

Q. What else?

A. Well, I didn't listen to the whole conversation.

Q. How about the hospital?

A. The hospital - oh, I knew that he wanted to see that she had the room set before she was set to go into the hospital.

Q. What was the conversation between the two of them about getting the hospital room?

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A. He told her that he would take care of the arrangements.

Q. Did she ask him to go with her to the hospital?

A. I don't recall.

Q. To register in the hospital.

A. I don't remember that.

Q. So the only thing you heard is that he wanted to know whether or not she had taken care of the plans to have the child christened, and she wanted him to go with her?

A. Well, she asked him if it was necessary that he had to go with her.

Q. She said yes?

A. She said if he had the time she would like him to go.

RE-EXAMINATION BY MR. CHASE:

Q. Did he say whether he would go or not?

A. Yes.

Q. He said yes.

RE-EXAMINATION BY ADMINISTRATIVE LAW JUDGE:

Q. Did he ever make a statement to the effect that I am the father of this unborn child? The direct statement I just asked you?

A. I don't recall him making such a direct statement, but he did from the conversation they had--

Q. You talked about the christening of the child and you talked about the hospital. That's all the conversation was?

A. He also asked her if she was making the appointments to go

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to the doctor; if she was feeling well enough to go to work; for how much longer she was going to work.

RE-EXAMINATION BY J. CHASE:

Q. Did you ever ask him if he was the father of the child? Did you ever hear him deny that he was the father of the child?

A. No.

RE-EXAMINATION BY ADMINISTRATIVE LAW JUDGE:

Q. Did he ever admit that he was the father of the child, directly in that kind of language? All you testified to is a conversation that you were present when he asked her whether she had made the arrangements with the church. No. 2, was the arrangement with the hospital, am I right?

A. Yes.

Q. And she had indicated to him that she would like to have him go - I think it was referring to the hospital, right?

A. Yes.

Q. And the answer was that if she thought it was necessary--

A. He was suppose to go for the christening papers.

Q. How about the hospital? Wasn't there some talk about the hospital too - about his going?

A. Well, they talked about the hospital concerning that he told her he would make the arrangements. He said he wanted her to have a private room; he would make the arrangements for her to have

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her own room beforehand. He wanted to get this established. That's what he did say.

Q. Alright, anything else, counselor? Oh, were you present at the christening?

A. No, I wasn't.

RE-EXAMINATION BY MR. CHASE:

Q. Is there anything else you can remember about - that you think may help the officer here?

A. I knew he asked her if she wanted anything; if she was feeling well enough, and he insisted on one occasion that she stop working, and she told him she wanted to keep on working until it was time for her to have the baby, but he told her he would rather that she not work for the 4, 6 or 7 months.

RE-EXAMINATION BY ADMINISTRATIVE LAW JUDGE:

Q. Are you single Miss?

A. Yes, I am. He also told her that if she still wanted to work, he would be glad to have her come and do some of his book work rather than go to her office where she worked. That much I did know.

RE-EXAMINATION BY MR. CHASE:

Q. Did she ever tell you that he was the father of the child?

A. Yes, I knew it.

Q. She told you?

A. Yes.

Q. Did he act like he was the father?

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A. Yes, he did.

Q. He acted like he was the father of her unborn child?

A. Yes.

RE-EXAMINATION BY ADMINISTRATIVE LAW JUDGE:

Q. How does the father of an unborn child act? Tell me how.

A. Out of his concern.

Q. Concern about her?

A. Yes, and the child. He was concerned that she stop working; he didn't want her to work; in five or six months he wanted her to stop working; he even offered to let her come where he was and take care of his books if she was so eager to work.

MR. CHASE: I have no further questions.

The claimant, ROSSINI ADAMS, having been recalled as a witness in her own behalf, further testified as follows:

RE-EXAMINATION BY ADMINISTRATIVE LAW JUDGE:

Q. Let me ask you a question. On this birth certificate, Miss Adams, why didn't you indicate who the father of the child was?

A. The birth certificate?

Q. Yes.

A. I wanted to but I believed that it was illegal to do that.

Q. You mean for you to say who's the father of the child?

A. Yes. I tried to. Maybe if I was more informed I could have insisted.

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RE-EXAMINATION BY MR. CHASE:

Q. Was it because you had to sign it or something?

A. No. I wanted to put his name down and--

RE-EXAMINATION BY ADMINISTRATIVE LAW JUDGE:

Q. Why didn't you tell - wait a minute counselor. I'm running this hearing, not you. I want to know why the birth certificate didn't bear the name of the father? Now, when she gave me an explanation that she was told it was illegal, and I accepted that. Now I want to know is why did she baptize the child in her name, Adams, instead of the name of the wage earner. Is there anything illegal about that?

A. No, I put his name down, you know, where it says the name of the father, and I believe, I'm not sure, I can't say definitely, I thought, you know, since the name was the same on the birth certificate, it would have to be the same on the baptismal certificate outside of it indicating, you know, who the father was. I mean I'm not a lawyer or anything.

ADMINISTRATIVE LAW JUDGE: What else, counselor?

MR. CHASE: I have no other questions.

ADMINISTRATIVE LAW JUDGE: Alright, bring your next witness.

The witness, ELIZABETH ANN WARREN, having been first duly sworn, testified as follows:

EXAMINATION BY ADMINISTRATIVE LAW JUDGE:

Q. Give your name and address for the record, please.

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A. Elizabeth Ann Warren, 66-10 Thornton Place, Forest Hills,
New York.

Q. Is that Miss or Mrs.?

A. Miss.

ADMINISTRATIVE LAW JUDGE: Alright, counselor.

EXAMINATION BY MR. CHASE:

Q. Miss Warren, how long have you known Miss Adams?

A. Six years.

Q. Did you know of her relationship with Mr. McGinn, Jr.?

A. Yes, I did.

Q. Did you know Mr. McGinn?

A. I met him briefly once in the beginning of their relationship.

Q. Did he ever acknowledge to you that he was the father of the child?

A. No, he did not.

Q. Did he ever - did you know - well, how did you learn that he was the father of her child?

A. I had learned that Rossi was pregnant, and I knew that she was seeing Peter prior to her pregnancy, and I was led to believe that Peter was the only person that she was seeing, and we discussed it at that time.

Q. She told you that he was?

A. Yes.

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Q. Did you attend the baptism?

A. Yes, I did.

Q. Did Mr. McGinn attend the baptism?

A. Yes, he did.

Q. And he acknowledged the child as his grandson?

A. Yes, he did.

Q. Were there any other relatives of the deceased at the baptism that you met?

A. No, nobody that I met or was introduced to as a relative.

Q. Do you know if Mr. McGinn was making any payments towards the support of the unborn child?

A. No, I don't know that.

Q. Did Rossi tell you anything about that?

A. No, nothing that I remember.

Q. Is there anything else you could tell us that would bear on this matter?

A. Nothing that I can really say, except for my conversation with Rossini during the time that she was pregnant. I was at the hospital when the baby was born. I did, as I said, attend the baptism. I can't think of anything further.

MR. CHASE: Okay, thank you. I have no further questions of this witness.

ADMINISTRATIVE LAW JUDGE: Is that your case?

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MR. CHASE: Well, I'd like to sum up.

ADMINISTRATIVE LAW JUDGE: I think you ought to look up that law - submit a memorandum of law. I know what the facts are.

MR. CHASE: Well, just briefly.

ADMINISTRATIVE LAW JUDGE: You can sum up if you want to, but I still think you ought to submit a memorandum of law, and I think you ought to look at this Bridges case.

(The hearing was closed at 12:25 p.m., September 25, 1972.)

C E R T I F I C A T I O N

I have read the foregoing transcript and hereby certify that it is a true and complete record of the hearing.

Christine M. Lee

Hearing Assistant



APPLICATION FOR MOTHER'S INSURANCE BENEFITS*

60

Form approved.
Budget Bureau No. 72-RG04-13
(Do not write in this space)

If you are applying as a widow, the information you furnish on this application will ordinarily be sufficient for a determination on the lump-sum death payment, without the filing of any separate application.

NOTICE. — Whoever makes or causes to be made any false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act is subject to not more than a \$1,000 fine or 1 year of imprisonment, or both.

Enter name of deceased wage earner or self-employed person

Peter McGinn

Enter his Social Security Number

054-22-7783

Enter your full name

TOPHIE McGINN

Enter your Social Security Number

054-22-7783

I hereby apply for all insurance benefits payable to me under Title II of the Social Security Act, as amended.

1. Enter your date of birth (Show month, day and year)

11/26/30

Enter the name of the State or foreign country where you were born

N.Y.

2. Enter your maiden name

FLANAGAN

3. (a) Have you ever filed an application for social security benefits before? Yes No
(If "Yes," answer (b) and (c) below.)

(b) Enter name of person on whose earnings record you filed other application.

(c) Enter Social Security number of person named in (b).

4. Enter below the information requested about each marriage of the deceased, including his marriage to you.

LAST MARRIAGE OF THE DECEASED	TO WHOM MARRIED	WHEN (Month, Day and Year)	WHERE (Enter name of City and State)
	HOW MARRIAGE ENDED	WHEN (Month, Day and Year)	WHERE (Enter name of City and State)
	TOPHIE FLANAGAN	03/01/52	N.Y., N.Y.
	Died	02/18/70	N.Y., N.Y.
PREVIOUS MARRIAGE OF THE DECEASED	TO WHOM MARRIED	WHEN (Month, Day and Year)	WHERE (Enter name of City and State)
PREVIOUS MARRIAGE OF THE DECEASED	TO WHOM MARRIED	WHEN (Month, Day and Year)	WHERE (Enter name of City and State)

(Use "Remarks" space for information about any other previous marriage.)

*This may also be considered an application for survivors benefits under Section 5 of the Railroad Retirement Act and for Veterans Administration payments under Title 38 USC., Veterans Benefits, Chapter 13 (which is, as such, an application for other types of death benefits under Title 38).

Exhibit No. 1(c)

5. Check (✓) whether your marriage to the deceased was performed by:
 Clergyman or authorized public official or Other
(Explanation)

6. Have you married since the death of the deceased? Yes No

7. Enter below information about each of your marriages. (Indicate your marriage to the deceased by entering his name; it is not necessary to repeat other information about this marriage you have already given in item 4.) Enter complete information on all other marriages, whether before or after you married the deceased.

YOUR LAST MARRIAGE	TO WHOM MARRIED <i>Peter McCAIN</i>	WHEN (Month, Day and Year)	WHERE (Enter name of City and State)
	HOW MARRIAGE ENDED <i>D</i>	WHEN (Month, Day and Year)	WHERE (Enter name of City and State)
YOUR PREVIOUS MARRIAGE	TO WHOM MARRIED <i>D</i>	WHEN (Month, Day and Year) <i>D</i>	WHERE (Enter name of City and State)
	HOW MARRIAGE ENDED <i>D</i>	WHEN (Month, Day and Year) <i>D</i>	WHERE (Enter name of City and State)
YOUR PREVIOUS MARRIAGE	TO WHOM MARRIED <i>D</i>	WHEN (Month, Day and Year) <i>D</i>	WHERE (Enter name of City and State)
	HOW MARRIAGE ENDED <i>D</i>	WHEN (Month, Day and Year) <i>D</i>	WHERE (Enter name of City and State)

(Use "Remarks" space for information about any other marriages.)

Answer question 8 if you are applying as a widow.

8. (a) Were you and the deceased living together at the same address when the deceased died?

Officer Yes No

(b) If either the deceased or you were away from home (whether or not temporarily) when the deceased died, give the following:

WHICH WAS AWAY
wife

DATE LAST HOME *7-4-60*
Officer

REASON ABSENCE BEGAN

REASON YOU WERE APART AT TIME OF DEATH

IF HOSPITALIZED, ENTER NAME OF HOSPITAL AND NATURE OF ILLNESS OR DISABLING CONDITION

Ree the office going personal

Answer question 9 only if you were divorced from the deceased.

9. (a) Was the deceased under a court order to contribute to your support?

Yes No

(b) Was the deceased contributing to your support?

Yes No

PLEASE READ CAREFULLY BEFORE ANSWERING QUESTIONS 10 AND 11.

You may receive a mother's benefit for any month in which you have in your care a child of the deceased entitled to a child's insurance benefit because he (she) is under age 18 or, if 18 or over, because he (she) is under a disability (which must have begun before age 18). If you are filing as a surviving divorced mother, such child must be your son, daughter, or legally adopted child who is entitled to child's benefits on the deceased's earnings record. Mother's benefits are not payable if the only child in your care is a child age 18 through 21 entitled to benefits as a full-time student.

10. Has an unmarried child of the deceased who is under 18 or disabled lived with you during any of the months in the period beginning with the month of death and ending with the present month (inclusive)? If "Yes," enter the information requested below:

Yes No

NAME OF CHILD	MONTHS CHILD LIVED WITH YOU (If all, write "All.")
MAGREEN	All
Peter	
Karen	
Karen	

11. Do you agree to notify the Social Security Administration promptly if you do not have in your care a child of the deceased entitled because he (she) is under 18 or disabled?

Yes No

Some or all of your benefits are not payable if you work for more than the monthly limit (as defined below) in employment or perform substantial services in self-employment in any month, and you have earnings in excess of the exempt amount (as defined below) for the taxable year.* This applies to all employment and self-employment, whether or not covered by the Social Security Act.

The "monthly limit" is \$100 per month for months in a taxable year ending prior to 1966 and \$125 per month for any taxable year ending after 1965. If the taxable year is a calendar year, the \$125 amount is effective January 1966.

The "exempt amount" of total earnings which you may earn without deduction from benefits is \$1,200 per year for a taxable year which ends before 1966. It is \$1,500 per year for taxable years ending after 1965. If the taxable year is a calendar year, \$1,500 is the exempt amount beginning 1966.

12. (a) How much do you expect your total earnings to be this year?
(Count all earnings beginning with the first of this year and all anticipated earnings through the end of this year)\$..... *3150*
(If the total in (a) is over the exempt amount, answer (b).)
- (b) Have you earned more than the monthly limit in employment or performed substantial services in self-employment in each of the months of this year including the present month? Yes (If "Yes," omit (c).) No
- (c) If "No," circle each month of this year including the present month in which you did not earn more than the monthly limit in employment and did not perform substantial services in self-employment.

THIS YEAR:

Jan Feb Mar Apr May June July Aug Sept Oct Nov Dec

Answer question 13 only if the deceased died before this year.

13. (a) How much were your total earnings last year?\$.....
(If the total in (a) is over the exempt amount, answer (b).)
- (b) Did you earn more than the monthly limit in employment or perform substantial services in self-employment in each month of last year? Yes (If "Yes," omit (c).) No
- (c) If "No," circle each month of last year in which you did not earn more than the monthly limit in employment and did not perform substantial services in self-employment.

LAST YEAR:

Jan Feb Mar Apr May June July Aug Sept Oct Nov Dec

*The yearly period referred to in this and following items is the same 12-month period you use in figuring your income tax. If you use a fiscal year, that is, a taxable year that does not end December 31 (with income tax return due April 15), enter here the month your fiscal year ends.

MONTH

14. An annual report of earnings must be filed with the Social Security Administration within 3 months and 15 days after the end of any year in which you earned more than the exempt amount and received a benefit payment for a month in that year. FAILURE TO REPORT MAY RESULT IN THE LOSS OF ADDITIONAL MONTHLY BENEFITS.

Do you agree to file the annual report of earnings when required?

Yes

No

15. Notify the Social Security Administration promptly if you remarry. Generally, remarriage ends your entitlement to mother's benefits. Certain exceptions to this general rule are explained in the "Rights and Responsibilities" booklet which you will receive. However, you must report even if you believe an exception applies. The Social Security Administration will advise you what additional information and evidence, if any, is needed, and will give you a decision on whether your benefits may continue.

Do you agree to notify the Social Security Administration promptly if you remarry, and to promptly return any benefit check you receive for the month you remarry, and for any later month?

Yes

No

REMARKS: (You may use this space for any explanations.)

Knowing that anyone making a false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act commits a crime punishable under Federal law, I certify that the above statements are true.

If this application has been signed by mark (X), two witness who know the applicant must sign below, giving their full addresses.

SIGNATURE (Write in ink)

SIGN
HERE

Jean McGivern

1. NAME

ADDRESS (Number and Street, City, State and ZIP Code)

MAILING ADDRESS (Number and Street, P.O. Box, or Route)

143 MELVILLE DR.

2. NAME

CITY, STATE, ZIP CODE

DATE (Month, Day and Year)

01/31/72

TELEPHONE NUMBER

547-4265

ENTER NAME OF COUNTY (if any) IN WHICH YOU NOW LIVE

Huntington

ADDRESS (Number and Street, City, State and ZIP Code)



APPLICATION FOR SURVIVING CHILD'S INSURANCE BENEFITS

64

Form Approved.
Budget Bureau No. 72-R-20127

(Do not write in this space)

NOTICE—Whoever makes or causes to be made any false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act is subject to not more than a \$1,000 fine or 1 year of imprisonment, or both.

Enter Name of Deceased/Wife or Self-employed Person

Peter McElroy

 Male
 Female

Enter His Social Security Number

254-22-7763

Enter Your Full Name

Dawn McElroy

I hereby apply, on behalf of the child or children listed in item 9 below, for all insurance benefits payable to them under Title II of the Social Security Act, as amended. (Answer the questions in Part II of this form with respect to yourself if you are applying on your own behalf—for example, if you are a student age 18 to 22 or a disabled child age 18 or over.)

PART I—INFORMATION ABOUT DECEASED WORKER

1. Enter the date of birth of the deceased (Month, Day and Year)	2. Enter the date and place of death (Month, Day and Year)	(City and State)
02/24/31	02/15/70	N.Y. N.Y.
3. Enter the name of the state or foreign country where the deceased had his fixed, permanent home at the time of his death.	State or Foreign Country	
4. (a) Was the deceased in active military or naval service after September 7, 1939? If "Yes," answer (b) and (c). If "No," go on to item 5.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
(b) Enter name of branch (Army, Navy, etc.), country served (if other than U.S.) and dates of service.	U.S. Marines 12/14/51 - 12/1/53	
(c) Has anyone (including the deceased) received, or does anyone expect to receive, from any Federal agency other than the Social Security Administration, a benefit based on the employment, military service, disability, or death of the deceased? If "Yes," enter name(s) of such person(s) and name(s) of Federal agency(ies).	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No V.F. - Postelko, Leinenkugel, Lenz	
5. Did the deceased work in the railroad industry at any time on or after January 1, 1937?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
6. • Enter the names and addresses of all the persons, companies or government agencies for whom the deceased worked during the 12 months before death. (If none, write "None") • If the deceased worked in agricultural employment, give this information for the year of death and the year before.	Name and Address of Employer If the deceased had more than one employer, please list them in order beginning with last (most recent) employer.	
	Work Began Work Ended Month Year Month Year	
	Channel Inn Restaurant Jan 1970 2-70	
	44 W. 54 St.	
	Use "Remarks" space for information about any other employers.	
7. (a) Was the deceased self-employed this year, last year, or the year before? <input type="checkbox"/> Yes If "Yes," answer (b). <input checked="" type="checkbox"/> No If "No," go on to item 8.		
(b) Check the year or years in which the deceased was self-employed	In what kind of trade or business was the deceased self-employed?	Were the deceased's net earnings \$400 or more?
<input type="checkbox"/> This Year		<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Last Year		<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Year Before Last		<input type="checkbox"/> Yes <input type="checkbox"/> No

* This may also be considered an application for survivors benefits under section 5 of the Railroad Retirement Act and for Veterans Administration payments under Title 38 U.S.C., Veterans Benefits, Chapter 13, (which is, as such, an application for other types of death benefits under Title 38).

8. (a) About how much did the deceased earn from employment and self-employment during the year in which he died? →	Amount \$ <u>unanswerable</u>
If death occurred this year, answer (b). If not, go on to item 9.	
(b) About how much did the deceased earn last year? →	Amount \$ <u>unanswerable</u>

PART II — INFORMATION ABOUT SURVIVING CHILDREN OF DECEASED WORKER

9. Enter below the information requested for ALL surviving children who, at any time since the parent died, were UNMARRIED and (a) under age 18; or (b) age 18 to 22 and attending school; or (c) age 18 or over and under a disability (which must have begun before age 18). If a child of the deceased is born after this application is filed, notify your Social Security district office promptly, as such child may receive benefits. If you are not applying for any child you name, enter the child's name in "Remarks" space and explain why you are not applying for such child. (You may apply for a child even though you do not wish to be payee for the child's benefits.)

Full Name of Child (Please list children in order of birth, beginning with the oldest)	Check (✓) Sex of Child		Date of Birth (Month, Day, Year)	Check (✓) if Child 18 or Over is Student or Disabled		Check (✓) the Column that Shows the Child's Relationship to the Worker			
	M	F		Student	Disabled	Legitimate	Stepchild	Adopted	Illegitimate
PURETTI	✓		5/19/55			✓			
PETER	✓		11/23/58			—			
Karen	✓		5/5/62			—			
Karen	✓		12/26/63			—			

10. Enter below your relationship to each of the children named in item 9. (For example, mother, adoptive father, stepmother, myself, uncle, sister, none, etc. If you are related in the same way to all the children, write "All" and then show your relationship.)

Name of Child(ren)	Your Relationship	Name of Child(ren)	Your Relationship
ALL	myself		

11. If any children in Item 9 are stepchildren of the deceased, enter the date the deceased married the natural parent. → Date of Marriage

12. Have any children in Item 9 ever been adopted by someone other than the deceased? Yes No
If "Yes," enter the following information:

Name of Child	Name of Person Adopting	Relationship, if any, before adoption	Date of Adoption

13. Were all the children in item 9 living with the deceased at the time of death? Yes No
If "No," enter the following information about each child who was not living with the deceased: (See Remarks)
- | Name of child not living with deceased | Person with whom child was living | | |
|--|-----------------------------------|---------|-----------------------|
| | Name | Address | Relationship to child |
| | | | |
| | | | |
| | | | |

14. If the deceased was the mother, adoptive mother, or stepmother, which of the children in item 9 were:

(a) Living with their father or adopting father? (If none, write "None")

(b) Receiving contributions from their father or adopting father? (If none, write "None")

15. Are all the children in item 9 now living in the same household with you? Yes No
If "No," enter the following information about each child not living with you. If uncertain as to the whereabouts of any of these children, explain under "Remarks" on last page.

Name of child not living with you	Person with whom child now lives		
	Name	Address	Relationship to child

Yes No

16. Has any child in item 9 ever been married?
If "Yes," enter the information requested below.

Name of Child

Date of Marriage (Month, Day, Year)

How Marriage Ended (If still married, write "Not Ended")

Date Marriage Ended (Month, Day, Year)

17. Has any child in item 9 ever had a social security number?
If "Yes," enter the following information for each child having a number.

Name of Child

Social Security Number

 Yes No

18. Has anyone ever before filed an application with the Social Security Administration for monthly benefits on behalf of any child in Item 9?

If "Yes," enter the name and social security number of the person on whose earnings record any other claim was based. Yes No

Name of Wage Earner or Self-employed Person

Social Security Number (If unknown, so indicate)

19. Do you understand that all payments made to you on behalf of a child must be spent for his present needs or (if not presently needed) saved for his future needs, and do you agree to use the benefits that way?

 Yes No

20. Do you agree to notify the Social Security Administration promptly when your address and/or the address of any child is changed or if you no longer have responsibility for the welfare and care of any child for whom you are filing?

 Yes No

If you are applying ONLY for a child age 18 or over who is disabled, you may omit items 21, 22, and 23 and go on to item 24. In all other cases, items 21, 22 and 23 must be answered.

Please read the following information before going on to Item 21.

Some or all of a child's benefits may not be payable if the child works for more than the monthly limit (as defined below) in employment or performs substantial services in self-employment in any month, and has earnings in excess of the exempt amount (as defined below) for the taxable year.* This applies to all employment and self-employment, whether or not covered by the Social Security Act.

The monthly limit is \$125 per month for months in a taxable year ending prior to 1968 and \$140 per month for any taxable year ending after 1967. If the taxable year is a calendar year, the \$140 amount is effective January 1968.

The exempt amount of total earnings which a child may earn without deduction from benefits is \$1,320 per year for a taxable year which ends before 1968. It is \$1,680 per year for taxable years ending after 1967. If the taxable year is a calendar year, \$1,680 is the exempt amount beginning 1968.

As an employee, count the gross wages (not the take-home pay) earned during the year, regardless of when the wages are paid. As a self-employed person, count the net earnings from business (after deducting allowable business expenses).

21. (a) Do you expect the total earnings of any child to be more than the exempt amount this year?

(Count all earnings beginning with the first of this year and all anticipated earnings through the end of this year.)

 Yes No*If "Yes," answer (b) and (c) below. If "No," go on to item 22.*

- (b) Enter the name of each child who will earn more than the exempt amount this year and the amount of expected earnings.

Name of Child

Expected earnings

\$

\$

- (c) Did every child named in (b) earn more than the monthly limit in employment or perform substantial services in self-employment in all months of this year including the present month?

If "No," enter the information asked for in the chart below. Yes No

Name of Child

List each month that child did not earn more than the monthly limit in employment and did not perform substantial services in self-employment

Name of Child and Month Fiscal Year Ends

* The yearly period referred to in this and subsequent items is the same 12-month period used in figuring income taxes. If any of the children for whom you are filing use a fiscal year (one that does not end on December 31), enter here the name of the child and the month the fiscal year ends.

22.

Complete this item only if the deceased died before this year.

Did any child earn more than the exempt amount last year?

If "Yes," enter the information asked for in the chart below.

67

 Yes No

Name of Child Who Earned Over The Exempt Amount Last Year	Total earnings of child	List each month that child did not earn more than the monthly limit in employment and did not perform substantial services in self-employment
	\$	
	\$	

An annual report of earnings must be filed with the Social Security Administration within 3 months and 15 days after the end of any year in which any child earned more than the exempt amount and received

some benefit payment for a month in that year.
FAILURE TO REPORT MAY RESULT IN THE LOSS OF ADDITIONAL MONTHLY BENEFITS.

23. Do you agree to file the annual report of earnings when required?

 Yes No

The events listed below end (or may end) a child's entitlement to social security benefits. If any one of these events occurs, you must notify the Social Security Administration. For some events, there are certain exceptions to the general rule that the event ends entitlement. Such exceptions are explained in the printed reporting instructions which will be given to you. However, you must report an event even if you believe an exception applies. The Social Security Administration will advise you what additional information and evidence, if any, is needed, and will give you a decision on whether the child's benefits may continue.

If you are receiving benefits on behalf of —

- (a) Any child, — report if the child MARRIES, DIES, or is LEGALLY ADOPTED.
- (b) A child age 18 to 22 entitled as a full-time student, — report if the child STOPS ATTENDING SCHOOL, REDUCES HIS ATTENDANCE, CHANGES SCHOOLS, OR IS PAID BY his employer TO ATTEND SCHOOL (at the request or as a requirement of his employer).
- (c) A child age 18 or over entitled because he is under a disability, — report if the child's DISABLING CONDITION improves, the child GOES TO WORK, or — if the child is now hospitalized — when the child is DISCHARGED FROM THE HOSPITAL.

24. Do you agree to notify the Social Security Administration promptly if any of the above events occur, and to promptly return any benefit checks you receive for a child which is not due?

 Yes No

Remarks: (You may use this space for any explanations. If you need more space, attach a separate sheet.)

My husband & I were separated for a bit. If I mention this, the mailman come home to see the children on welfare.

Knowing that anyone making a false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act commits a crime punishable under Federal law, I certify that the above statements are true.

If this application has been signed by mark (X), two witnesses who know the applicant must sign below, giving their full addresses.

Signature (Write in ink)

SIGN
HERE →

Jean McLean

Name

Address (Number and Street, City, State and Zip Code)

Mailing Address (Number and Street, P.O. Box, or Rural Route)

145 Octagon Dr.

Name

City and State

Zip Code

Address (Number and Street, City, State and Zip Code)

Date (Month Day Year)

Telephone Number

March 1, 1967 *514-542-65*

Enter Name of City (if any) in Which You Now Live

Albion, N.Y.

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION

CLAIM NUMBER
054-22-7783 C

68

Certificate of Social Insurance Award

DATE: 7/22/70



THIS IS TO CERTIFY THAT THE PERSON(S) NAMED BELOW BECAME ENTITLED TO THE INSURANCE BENEFITS SHOWN,
PAYABLE UNDER TITLE II OF THE SOCIAL SECURITY ACT.

NAME AND ADDRESS OF PAYEE AS THE CLAIMANT
OR AS REPRESENTATIVE OF THE CLAIMANT

DATE OF
ENTITLEMENT
2/70

MONTHLY
BENEFIT
\$280.40

AMOUNT OF
FIRST CHECK
\$1121.60

Joan McGinn
for Children of P McGinn
143 Autumn Dr
Hauppauge NY 11787

TYPE OF BENEFIT: Child

Karen A	2/70	\$70.10
Kevin M	2/70	70.10
Peter J	2/70	70.10
Maureen A	2/70	70.10

The right to receive social security benefits carries with it certain responsibilities. They are explained in the booklet furnished you. Read this booklet carefully. Be sure that you understand clearly what you can expect by way of benefits, and what is to be expected of you. If you have any questions or wish additional information about your benefits, please get in touch with any social security office. Most questions can be handled by telephone or mail. If you visit the office, however, please take this Certificate with you.

Enclosure: 779

NOTICE: If you believe that this determination is not correct, you may request that your case be reexamined. If you want this reconsideration, you must request it not later than 6 months from the date of this notice. You may make your request through any social security office. If additional evidence is available, you should submit it with your request.

ROBERT M. BALL

COMMISSIONER OF SOCIAL SECURITY

Exhibit No. 3

Robert M. Ball

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION

054-22-7783 E

69

DATE: 7/22/70

THIS IS TO CERTIFY THAT THE PERSON(S) NAMED BELOW BECAME ENTITLED TO THE INSURANCE BENEFITS SHOWN,
PAYABLE UNDER TITLE II OF THE SOCIAL SECURITY ACT.



NAME AND ADDRESS OF PAYEE AS THE CLAIMANT
OR AS REPRESENTATIVE OF THE CLAIMANT

DATE OF ENTITLEMENT	MONTHLY BENEFIT	AMOUNT OF FIRST CHECK
2/70	\$70.10	\$280.40

Joan McGinn
143 Autumn Dr
Hauppauge NY 11787

TYPE OF BENEFIT: Mother

The right to receive social security benefits carries with it certain responsibilities. They are explained in the booklet furnished you. Read this booklet carefully. Be sure that you understand clearly what you can expect by way of benefits, and what is to be expected of you. If you have any questions or wish additional information about your benefits, please get in touch with any social security office. Most questions can be handled by telephone or mail. If you visit the office, however, please take this Certificate with you.

NOTICE: If you believe that this determination is not correct, you may request that your case be reexamined. If you want this reconsideration, you must request it not later than 6 months from the date of this notice. You may make your request through any social security office. If additional evidence is available, you should submit it with your request.

Exhibit No. 4 (2)
Robert M. Ball
ROBERT M. BALL
COMMISSIONER OF SOCIAL SECURITY

COPY

ADDITIONAL INFORMATION ABOUT YOUR CLAIM

Because of your earnings you should not be paid benefits beginning February 1970 ; in addition, the benefits now paid for the children living with you should be increased. But to save administrative costs, the law permits us to pay to you the increase due the children. Therefore, you will receive payments of \$ 70.10 each month even though you are working. This amount is for the use and benefit of the children and is not considered your own income.

Please notify any social security office if (1) your wages for any month do not exceed \$140 and you do not perform substantial work as a self-employed person (2) you expect your total earnings for the year to be substantially more or less than you have told us, or (3) you or any one of the children leave the household group.



APPLICATION FOR SURVIVING CHILD'S INSURANCE BENEFITS

NOTICE—Whoever makes or causes to be made any false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act is subject to not more than a \$1,000 fine or 1 year of imprisonment, or both.

200 MCFATT STREET
BROOKLYN, N. Y.

71

AUG 5 1970

21139

SSA DISTRICT OFFICE

Enter Name of Deceased Wage Earner or Self-Employed Person (Herein referred to as the "deceased")

(Check one)

- Male
 Female

Enter His Social Security Number

054 22 7723

Enter Your Full Name

Pessini Adams

I hereby apply, on behalf of the child or children listed in item 9 below, for all insurance benefits payable to them under Title II of the Social Security Act, as amended. (If you are applying on your own behalf, answer the questions in Part II of this form with respect to yourself.)

PART I—INFORMATION ABOUT THE DECEASED

1. Enter the date of birth of the deceased (Month, Day and Year)

2/28/28

2. Enter the date and place of death (Month, Day and Year)

2/18/70

(City and State)

Brooklyn

3. Enter the name of the state or foreign country where the deceased had his fixed, permanent home at the time of his death.

State or Foreign Country

New York

4. (a) Was the deceased in active military or naval service after September 7, 1939? (If "Yes," answer (b) and (c). If "No," go on to item 5.)

- Yes No

(b) Enter name of branch (Army, Navy, etc.), country served (if other than U.S.) and dates of service.

(c) Has anyone (including the deceased) received, or does anyone expect to receive, from any Federal agency other than the Social Security Administration, a benefit based on the employment, military service, disability, or death of the deceased? Yes No
(If "Yes," enter name(s) of such person(s) and name(s) of Federal agency(ies).)

5. Did the deceased work in the railroad industry at any time on or after January 1, 1937? Yes No

6. • Enter the names and addresses of all the persons, companies or government agencies for whom the deceased worked during the 12 months before death. (If none, write "None")
• If the deceased worked in agricultural employment, give this information for the year of death and the year before.

NAME AND ADDRESS OF EMPLOYER

If the deceased had more than one employer, please list them in order beginning with last (most recent) employer.

Chambers 74466-344-07 N.Y.C.

WORK BEGAN

WORK ENDED

Month	Year	Month	Year
		2	70

Use "Remarks" space on last page for information about any other employers.

EXHIBIT NO. 5(4)

7. (a) Was the deceased self-employed this year, last year, or the year before?

- Yes (If "Yes," answer (b).) No (If "No," go on to item 8.)

(b) Check the year or years in which the deceased was self-employed

In what kind of trade or business was the deceased self-employed?

Were the deceased's net earnings \$400 or more?

 This Year

- Yes No

 Last Year

- Yes No

 Year Before Last

- Yes No

* This may also be considered an application for survivors benefits under section 5 of the Railroad Retirement Act and for Veterans Administration payments under Title 36 U.S.C., Veterans Benefits, Chapter 13, (which is, as such, an application for other types of death benefits under Title 36).

8.	(a) About how much did the deceased earn from employment and self-employment during the year in which he died? <i>\$ 72</i>	Amount \$ <i>72</i>
	If death occurred this year, answer (b). If not, go on to item 9.	
	(b) About how much did the deceased earn last year? <i>\$ 1,121</i>	Amount \$ <i>1,121</i>

PART II—INFORMATION ABOUT SURVIVING CHILDREN OF THE DECEASED

9. Are there ANY surviving children (including natural children, adopted children and stepchildren) who, at any time since the parent died, were UNMARRIED and:

- UNDER AGE 18

Yes No

- AGE 18 TO 22 AND ATTENDING SCHOOL

Yes No

- DISABLED (age 18 or over and disability began before age 18)

Yes No

(List ALL such children in order of birth beginning with the oldest.)

CHECK (<input checked="" type="checkbox"/>) SEX OF CHILD	DATE OF BIRTH (Mo., day, yr.)		Check (<input checked="" type="checkbox"/>) if Child 18 or Over is Student or Disabled		Check (<input checked="" type="checkbox"/>) the Column That Shows Child's Relationship to Worker			
	M	F	Student	Disabled	Legitimate	Adopted	Stepchild	Other
FULL NAME OF CHILD <i>Julie</i>	<i>i</i>	<i>3/8/70</i>						
CHILD'S SOCIAL SECURITY NUMBER <i>None</i>								
FULL NAME OF CHILD								
CHILD'S SOCIAL SECURITY NUMBER								
FULL NAME OF CHILD								
CHILD'S SOCIAL SECURITY NUMBER								

If you are not applying for any child you name, enter the child's name under "Remarks" (page 4 of this form) and explain why you are not applying for such child. You may apply for a child even though you do not wish to be the payee for the child's benefits.

10. Enter below your relationship to each of the children named in item 9. (For example, mother, adoptive father, stepmother, myself, uncle, sister, none, etc. If you are related in the same way to all the children write "All" and then show your relationship.)

Name of Child(ren)	Your Relationship	Name of Child(ren)	Your Relationship
<i>Julie</i>	<i>Mother</i>		

11. If any children in item 9 are stepchildren of the deceased, enter the date the deceased married the natural parent. Date of Marriage

12. Have any children in item 9 ever been adopted by someone other than the deceased?
(If "Yes," enter the following information):

Name of Child	Name of Person Adopting	Relationship, if any, before adoption	Date of Adoption

13. Were all the children in item 9 living with the deceased at the time of death? (If "No," enter the following information about each child who was not living with the deceased.)		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No 73
Name of Child Not Living With Deceased	Person With Whom Child Was Living	
	Name and Address	Relationship to Child
14. Are all the children in item 9 now living in the same household with you? (If "No," enter the following information about each child not living with you. If uncertain as to the whereabouts of any of these children, explain under "Remarks" on last page.)		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Name of Child Not Living With You	Person With Whom Child Now Lives	
	Name and Address	Relationship to Child
15. Has any child in item 9 ever been married? (If "Yes," enter the information requested below.)		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Name of Child	Date of Marriage (Month, Day, Year)	
How Marriage Ended (If still married write "Not Ended")	Date Marriage Ended (Month, Day, Year)	
16. Has anyone ever before filed an application with the Social Security Administration for monthly benefits on behalf of any child in item 9? (If "Yes," enter name and social security number of person on whose earnings record any other claim was based.)		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Name of Wage Earner or Self-Employed Person	Social Security Number (If unknown, so indicate)	
17. Do you understand that all payments made to you on behalf of a child must be spent for his present needs or (if not presently needed) saved for his future needs, and do you agree to use the benefits that way?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
18. Do you agree to notify the Social Security Administration promptly when your address and/or the address of any child is changed or if you no longer have responsibility for the welfare and care of any child for whom you are filing?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If you are applying ONLY for a child age 18 or over who is disabled, you may omit items 19, 20, and 21 and go on to item 22. In all other cases, items 19, 20 and 21 must be answered.		
<p>Please read the following information before going on to Item 19.</p> <p>Some or all of a child's benefits may not be payable if the child earns more than \$1,680 in a year.* If he earns more than \$1,680, benefits may be withheld for any month in which he earns more than \$140 in wages or performs substantial services in self-employment. Count the gross wages (not the take-home pay) earned during the year, regardless of when the wages are paid. Count the net earnings from self-employment (after deducting allowable business expenses). Include all earnings from employment and self-employment, whether or not the work is covered by social security.</p>		
19. (a) Do you expect the total earnings of any child to be more than \$1,680 this year? (Count all earnings beginning with the first of this year and all anticipated earnings through the end of this year) (If "Yes," answer (b). If "No," go on to item 20)		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
(b) Name of Child Who Expects To Earn Over \$1,680 This Year		Expected Earnings List Each Month (including the present month) That Child Did Not Earn More Than \$140 In Employment and Did Not Perform Substantial Services in Self-Employment
\$		
\$		
* The yearly period referred to in this and subsequent items is the same 12-month period used in figuring income taxes. If any of the children for whom you are filing use a fiscal year (one that does not coincide with the calendar year), enter the name of the child and the month		Name of Child and Month Fiscal Year Ends

Complete this item only if the deceased died before this year.

20. (a) Did any child earn more than \$1,680 last year?

Yes No

(If "Yes," answer (b). If "No," go on to item 21.)

(b)

Name of Child Who Earned Over
\$1,680 Last Year

Total earnings
of child

List each month that child did not earn more
than \$140 in employment and did not perform
substantial services in self-employment

\$

\$

An annual report of earnings must be filed with the Social Security Administration within 3 months and 15 days after the end of any year in which any child earned more than \$1,680 and received some benefit payment for a month in that year. FAILURE TO REPORT MAY RESULT IN THE LOSS OF ONE OR MORE MONTHLY BENEFITS.

21. Do you agree to file the annual report of earnings when required?

Yes No

YOU MUST NOTIFY THE SOCIAL SECURITY ADMINISTRATION PROMPTLY IF:

- Any child MARRIES, DIES, or is ADOPTED
- A student, age 18 to 22, STOPS ATTENDING SCHOOL, REDUCES HIS SCHOOL ATTENDANCE BELOW FULL-TIME, CHANGES SCHOOLS, or IS PAID BY HIS EMPLOYER TO ATTEND SCHOOL
- A disabled child, age 18 or over, DISABLING CONDITION IMPROVES, GOES TO WORK, or if now hospitalized is DISCHARGED FROM THE HOSPITAL.

Benefits may end if any of the above events occur. However, there are certain exceptions which are explained in the informational booklet which you will receive. You must report each of these events even if you believe an exception applies. We will advise you whether additional evidence is needed and how the benefits may be affected.

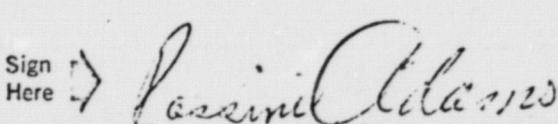
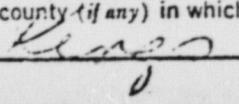
22. Do you agree to notify the Social Security Administration promptly if any of the above events occur, and to promptly return any benefit check you receive for a child which is not due?

Yes No

Remarks: (You may use this space for any explanations. If you need more space, attach a separate sheet.)

2
3

I know that anyone who makes a false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act commits a crime punishable under Federal Law. I affirm that the above statements are true.

SIGNATURE OF WITNESSES	SIGNATURE OF APPLICANT	
If this application has been signed by mark (X), two witnesses who know the applicant must sign below, giving their full addresses.	Signature (First name, middle initial, last name) (Write in ink)	
1. Signature	Sign Here 	
Address (Number and Street, City, State and ZIP Code)	Mailing Address (Number and Street, Apt. No., P.O. Box, or Rural Route)	
2. Signature	City and State	ZIP Code
Address (Number and Street, City, State and ZIP Code)	Date (Mo., day and year)	Telephone number
	6/15/50	644-3974
Enter name of county (if any) in which you now live 		

COPY

75



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
PAYMENT CENTER
FLUSHING, NEW YORK 11368

REFER TO CLAIM NUMBER
054-22-7783

BUREAU OF RETIREMENT
AND SURVIVORS INSURANCE

November 10, 1970

Rossini Adams
749 Vermont St
Brooklyn NY 11207

This refers to your claim for benefits under the Social Security Act for Devlin C Adams.

We cannot pay child's benefits on your claim because a requirement of the social security law is not met. The requirement is that the father must have acknowledged the child in writing, or have been ordered by a court to contribute to the child's support or have been judicially decreed to be the child's father, or have been otherwise established as the child's father and as living with the child or contributing to his support.

The court decree, court order, or the written acknowledgment must have been made not less than one year before the time the father became entitled to retirement insurance benefits or attained age 65, whichever is earlier, or before the father's death.

If you believe that this determination is not correct, you may request that your claim be reexamined. If you want this reconsideration, you must request it not later than 6 months from the date of this letter. You may make your request through any social security office. If additional evidence is available, you should submit it with your request. Please read the enclosed leaflet for a full explanation of your right to question the decision made on your claim.

If you have any questions about your claim, you should get in touch with any social security office. Most questions can be handled by telephone or mail. If you visit the office, however, please take this letter with you.

Sincerely yours,

Eileen S. Sheridan

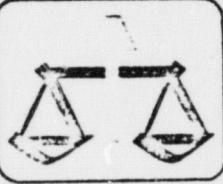
Eileen Sheridan
Chief, Claims Authorization Branch

Enclosure:
SSI-58

Exhibit No. 6

WE
CAN
HELP

PODEMOS
AYUDARLO



Community
Action for
Legal
Services, Inc.

335 Broadway New York, New York 10013 (212) 966-6500
Thomas M. Quinn, Chairman John DeWitt Gregory, Counsel

76

April 2, 1971

John A. McConnachie
Regional Representative
Department of Health, Education
and Welfare
Social Security Administration
Payment Center
Flushing, New York 11368

Bacon

Re: 054-22-7783
Peter McGinn

Dear Sir:

This is to advise you that Rossinni Adams, mother of Devlin C. Adams, an infant, hereby requests formal reconsideration of your decision of November 12, 1970 to refuse benefits under the Social Security Act to Devlin C. Adams. Additional information in support of this claim will be forwarded to you shortly. ✓

Miss Adams has retained me to represent her in this matter.

Sincerely,

Oscar Chase

OSCAR G. CHASE

OGC:yw

Exhibit No. 7



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
Bureau of Retirement and Survivors Insurance

77

New York, New York

When writing about your claim
always give Claim No.

054-22-7723

Miss Rossini Adams
719 Vermont Street
Brooklyn, New York 11207

RSI:RR:NY:CCR:RM
January 26, 1972

Dear Miss Adams:

As you requested, your claim has been reconsidered. It has been found that the original decision was correct and in accordance with the law and regulations. The enclosed Reconsideration Determination fully explains the decision reached.

This reconsideration was made by a member of a specially designated staff, different from the staff that made the original decision, and specially trained in the handling of reconsiderations. This staff made an independent and thorough examination of all the evidence on record about your claim.

If you believe that the Reconsideration Determination is not correct, you may request a hearing before a hearing examiner of the Bureau of Hearings and Appeals. If you want a hearing you must request it not later than 6 months from the date of this notice. You should make any such request through your social security office. Please read the enclosed leaflet for a full explanation of your right to appeal. A copy of the Reconsideration Determination and a copy of this notice is being sent to your attorney, Mr. Chase. Sincerely yours,

Pasquale J. Calizurri

Regional Representative
Retirement and Survivors Insurance

Enclosures:
Form OA-C662
Form BHA-1

Exhibit No. 8(5)

2/1/2017

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION

78

RECONSIDERATION DETERMINATION

PAYMENT CENTER	DISTRICT OFFICE
Office of the Regional Representative (Retirement and Survivors) New York	114 Pennsylvania Avenue Brooklyn, New York 11207
NAME OF WAGE EARNER OR SELF-EMPLOYED PERSON	SOCIAL SECURITY ACCOUNT NO.
Peter McGinn	054-22-7783
NAME OF CLAIMANT	TYPE OF CLAIM
Rossini Adams for Devlin Adams	Child's Insurance Benefits

DETERMINATION:

On August 5, 1970 Rossini Adams filed an application for child's insurance benefits on behalf of her son, Devlin Adams, as the child of Peter McGinn who died on February 18, 1970, domiciled in New York. On November 10, 1970 she was advised that the claim had been disallowed because Devlin did not qualify for benefits as his child and she timely requested reconsideration.

Accordingly the question to be determined is whether Devlin Adams is entitled to child's insurance benefits on this account.

Section 202(d) of the Social Security Act provides for the payment of child's insurance benefits to a qualified child of an insured individual.

Section 216(e) of the Act defines a "child" as a natural child, legally adopted child, or stepchild of an insured individual.

Section 216(h)(2) of the Act as applicable here, provides that an applicant has the status of a child of an insured individual if under the laws of the State of the insured person's domicile at the time of his death, the applicant would be recognized as his child for the purpose of inheritance; his personal property as if he had died without leaving a will or if the parents went through a marriage ceremony resulting in a purported marriage which except for a legal impediment described in Section 216(h)(1)(B) of the Act, would have been a valid marriage.

Where an applicant does not meet the definition of a child under Section 216(h)(2) of the Act, the applicant may still qualify for monthly benefits on an insured person's account under Section 216(h)(3) of the Act, if the insured had acknowledged in writing that the applicant is his child, or had been decreed by a court to be the father, or had been ordered by a court to contribute to the

Peter McGinn

054-22-7783

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applicant's support because applicant is his child, and such acknowledgement, court decree or court order existed at the time of the insured person's death; or if by evidence satisfactory to the Administration, the insured person is shown to be the father and he was living with or contributing, regularly and substantially, to the child's support at the time such individual died.

A finding of living with is not justified where alleged parents of a child have separated due to domestic difficulty and the separation continues until the alleged father's death.

The record shows that Mr. McGinn died on February 18, 1970, leaving surviving his legal widow, Joan Flanagan McGinn, who he had married ceremonially in 1952 and four children, Maureca, Peter, Kevin and Karen McGinn.

The record further shows that following his death, Rossini Adams gave birth to her son, Devlin Adams, on March 8, 1970, at Mt. Sinai Hospital in New York City. Although the name of Devlin's father was not listed on his birth certificate, Rossini claims that Mr. McGinn is the child's father. She states that the child was conceived as a result of her "close personal relationship" to Mr. McGinn and that he never denied his paternity to the child. She concedes that they were never married. It also is conceded that at the time of his death, there was no written acknowledgement by him or court decree bearing on his paternity to the child, nor was there a court order bearing on the child's support by him.

In a statement of August 5, 1970, Rossini maintained that she began living together with Mr. McGinn at his apartment in June 1969. According to other statements made by her, at that time, they did not live together all the time due to arguments. They were separated in January 1970 because of an argument and had not resumed living together at the time of his death. She claimed that he had planned to pay for her expenses in connection with the child's birth and to support them after the child was born. However, she also stated that when they were separated in January 1970, she used her own funds for support and that in the period of June 1969 to January 1970, he made contributions to her support when necessary and not on a "regular payment basis."

In a later statement Rossini claimed that they had commenced living together in February 1969 and stated that they had met at a party.

Peter McGinn

054-22-7783

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Evidence obtained from legal widow placed the date of her separation from her husband as four months before his death. The legal widow also stated that even after the separation he returned to their home on weekends to see their children. Rossini indicated that she was aware that he was maintaining a home separate and apart from his apartment.

In addition, a statement also was obtained from Mr. McGinn's father in August 1970. At this time he stated that "to the best of my knowledge my son never acknowledged the child in writing or told anyone verbally that the child was his." He added that after his son's death, a Rossini Adams had approached him and told him that his son was the father of her child.

A contact was also made at Mr. McGinn's last place of employment. His employment had ended with his death. The contact revealed that the only children he was known to have fathered were the children born of his ceremonial marriage to the surviving legal widow.

Notwithstanding this evidence, Rossini Adams asserted that other individuals knew that Mr. McGinn is Devlin's father. However, she also indicated that the physician from whom she received prenatal care would not know the identity of the child's father nor would the landlord of the apartment where she allegedly lived with Mr. McGinn or the neighbors know that they were living there together. She also admitted that other relatives likewise would not know this and she conceded that at the time of Mr. McGinn's death, it was "up in the air" whether they would resume living together.

In an attempt to support her allegation, she presented an affidavit executed by Mr. McGinn's father in April 1971, in which he varied his original statements. At this time, this individual stated that he had known Rossini since May 1969; that he had been given to understand that she had lived with his son for several months before his death in a close personal relationship but there had been no decision made by them to enter into a marital relationship; and, that in January 1970, his son had informed him that he was the father of Rossini's unborn child.

File further shows that Devlin was baptized in March 1971 and that on the baptismal record his father is listed as Peter McGinn. However it was established that Mr. McGinn had not discussed the paternity of the child with the individuals who sponsored the child at the baptism even though he had spoken to them before his death and that the sponsors could not even provide any information about the support situation with regard to the child.

Peter McGinn

054-22-7783

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It was also established that another brother of Mr. McGinn has no knowledge about the child's paternity.

Mr. McGinn was domiciled in the State of New York at the time of his death. Consequently, the laws of the State of New York are applicable in this case.

Since Mr. McGinn and Rossini Adams never went through a marriage ceremony and their alleged relationship was at best a meretricious one, the child does not have any inheritance rights to him under the laws of the State of New York. There also was no written acknowledgement or court order bearing on the child's paternity to him at the time of his death nor was there at that time, a court order bearing on the child's support by him. In addition the evidence does not satisfactorily establish that Devlin is his child nor does it establish that he was either living with or contributing, regularly and substantially, to Devlin's support when he died.

Decision of disallowance is affirmed.

Bernard Levine
Chief, Reconsideration Branch

January 20, 1972

7-10-1-072

ACCOUNT NUMBER 054-22-77	NAME MCGINN	SEX M	DATE OF BIRTH 02 24 31	FILING 03 03 70	DEATH 02 18 70	ONSET 03 07 03 07	ELECTION REQUEST SCIP	SCIP X	CA NYE	ED EN	X QC	HIS AG INV	FB IND	DESK 77	DAY CODE 10833	SEQ NO. 16	COP CODE 1A	CASE DE CC	NUMBER 33543
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ESTABLISHED DISABILITY PERIOD

LAG INFORMATION												PRE-1957 MILITARY SERVICE									
TYPE	PERIOD	AMOUNT USED	TYPE	PERIOD	AMOUNT USED	TYPE	PERIOD	AMOUNT USED	TYPE	PERIOD	AMOUNT USED	YR	LOWW	FROM	TO	FROM	TO				
														12/51	12/53						

2 EARNINGS RECORD DATA												3 QC AND EARNINGS TOTALS											
QUARTER OF COVERAGE TESTIS												TOTAL EARNINGS AFTER 1956											
REQUIRED QC		HAS QC		SIMP QC		MAX QC		C/I FIRST ELIG		DISABILITY NET		TOT SE QC	TOT AG QC	TOTAL EARNINGS AFTER 1950									
FULLY	IN	SPEC	NIR	72				72	44	44	NON EX 72-31	72-31	72-31	72-31	72-31	72-31	72-31	72-31					
17				40								69	44	109094.33	104718.70								
YR	EARNINGS		U	QC/SM	YR	EARNINGS		U	QC/SM	SE	YR	QC/SM	SE	AG	YR	EARNINGS	U	QC/SM	SE	AG	DMW		
37					46					1200	55	4846.14	X	CCCC	0	0	14	5088.00	H	CCCC	0	0	
38					47					56	4398.40	X	CCCC	0	0	15	9045.98	H	CCCC	0	0		
39					48					57	4200.00		CCCC	0	0	16	12089.20	H	CCCC	0	0		
40					49					58	4200.00		CCCC	0	0	17	13449.63	H	CCCC	0	0		
41					50					4800	59	5024.98	H	CCCC	0	0	18	8368.26	H	CCCC	0	0	
42					51	3600	1472.82	M	0	60	4800.00	H	CL**	0	0	19	2547.10	CCCN	0	0			
43					52	1943.92	M	MM	0	61	4800.00	H	CCCC	0	0	20		NNNN	0	0			
44					53	2082.33	M	MMC	0	62	5647.27	H	CCCC	0	0	21							
45					54	4080.25		CCCC	0	63	7584.42	H	CCCC	0	0	22							

4 PERTINENT RRD INFORMATION																				
NAME	OB	YLR	1937 TO DATE	1937 - 1946		GROSS RESIDUAL		I	I	A	R	B	RR	RR	37	37	MED PRE	ALL RR	RR	RR
	MO	YR	SM	COMPENSATION		SM	COMPENSATION	INV	IZB	ANN	REL	ELM	JUR	TO	48	48	EV	SI	SUR	SPD

5 BENEFIT COMPUTATIONS																	
EDP	Type	First Base Yr or Su	Last Base Yr on CD	Dividend	Disab Base Yrs Excl	Eligible Payout Dif Yrs	DM	I/Y	MS	MUS Incl	PIA		Lump Sum	First Ent Mo	Med Mos	Reduced Benefits	
											FETHQ	CURR				Retro	Curr
NS 65	1951	1970	63000.00	53-59	144					187.30H	255.00	02/70					

50 DO, PC OR BD REMARKS

BDA EXAMINER													Q
													C
													Q
													C

EXHIBIT 9

DIVISION OF RECORDS
DEPARTMENT OF HEALTH
BOROUGH OF QUEENS

DATE FILED

70 FEB 20 PM 12:40

McGINN, Peter #89

CERTIFICATE OF DEATH

83

Certificate No.

156-70-104231

1. NAME OF DECEASED (Type or Print)		PETER		McGINN		
		First Name	Middle Name	Last Name		
MEDICAL CERTIFICATE OF DEATH (To be filled in by the Physician)						
2. PLACE OF DEATH	a. New York City b. Borough MANHATTAN	c. Name of Hospital or Institution. If not in hospital, street address 65 WEST 55th STREET				
3a. DATE AND HOUR OF DEATH	(Month) 2	(Day) 18	(Year) 70	3b. Hour	AM 19 PM	
4. SEX	MALE		5. APPROXIMATE AGE 40 years.			
6. I HEREBY CERTIFY that, in accordance with the provisions of law, I took charge of the dead body OFFICE OF CHIEF MEDICAL EXAMINER at 520 FIRST AVENUE on 19 day of February, 1970 I further certify from the investigation and post-mortem examination (with) autopsy that in my opinion death occurred as the result of the hour stated above and resulted from HOMICIDE (homicide) and that the causes of death were:						
PART 1		a. Immediate cause LUNGS, LIVER, INTESTINES, LEFT HUMERUS, PELVIS. b. Due to or as a consequence of HEMOTHORAX, HEMOPERICARDIUM, HEMOPERITONEUM. c. Due to or a consequence of	BULLETPUNCTURE WOUNDS OF CHEST, ARMS, THIGH, HAND, HEART,			
PART 2		Contributory causes	HOMICIDAL.			
M.E. Case No. 1666		Signed Judith H. Lehotsky, M.D. CITY OF NEW YORK (Associate) CHIEF MEDICAL EXAMINER (Medical Examiner)				
PERSONAL PARTICULARS (To be filled in by Funeral Director)						
7. USUAL RESIDENCE	a. State New York	b. County Suffolk	c. City or Town Hauppauge	d. Inside city limits (specify Yes or No) Yes		
	e. Street and house number 113 Autumn Drive	f. Length of residence or stay in City of New York immediately prior to death. non-resident				
8. SINGLE, MARRIED, WIDOWED or DIVORCED (Write in word) Married			9. NAME OF SURVIVING SPOUSE (If wife, give maiden name) Joan Anne Flanagan			
10. DATE OF BIRTH OF DECEDENT	(Month) Feb	(Day) 24	(Year) 1931	11. AGE at last birthday	If under year mos. days 38 Yrs	If LESS than 1 day hrs or min.
12a. USUAL OCCUPATION (Kind of work done during most of working life, even if retired.) Restaurant Owner			12b. KIND OF BUSINESS OR INDUSTRY 13. SOCIAL SECURITY NO. 051-22-7763			
14. BIRTHPLACE (State or Foreign Country) New York City			15. OF WHAT COUNTRY WAS DECEASED A CITIZEN AT TIME OF DEATH. USA			
16. ANY OTHER NAME(s) BY WHICH DECEDENT WAS KNOWN						
17. NAME OF FATHER OF DECEDENT Peter McGinn			18. MAIDEN NAME OF MOTHER OF DECEDENT Sadie O'Rourke			
19a. NAME OF INFORMANT Joan Anne McGinn		b. RELATIONSHIP TO DECEASED wife		c. ADDRESS 113 Autumn Dr. Hauppauge, NY		
20a. NAME OF CEMETERY OR CREMATORIAL L. I. National Cem		b. LOCATION (City, Town or County and State) Pinelawn, New York		c. DATE of Burial or Cremation 2/23/70		
21a. FUNERAL DIRECTOR Michael J. Grant Funeral Home		b. ADDRESS 571 Suffolk Ave. Brentwood, N. Y.				

BUREAU OF RECORDS AND STATISTICS—DEPARTMENT OF HEALTH—THE CITY OF NEW YORK

This is to certify that the foregoing is a true copy of a record in my custody.

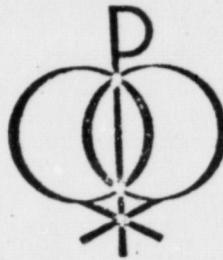
Paul E. Stern
Acting Director

BY William Stern
Borough Registrar

Exhibit No. 15

The Department of Health does not certify to the truth of the statements made thereon, as no inquiry as to the facts has been provided by law.

Certificate of Marriage



Our Lady of Lourdes Church
92-96 220th Street
Queens Village, N. Y. 11429

* This is to Certify *

That Peter J. Mc Ginn
and Jean A. Fleisig

* Were Lawfully Married *

on the 194 day of March 1952

According to the Rite of the Roman Catholic Church

and in conformity with the laws of the State of New York.

and in conformity with the laws of _____
Rev. Henry G. Bybee _____
officiating, in the presence of Natalie F. Heloise
and Peter J. Flanagan Witnesses, as appears
from the Marriage Register of this Church.

Dated February 20th, 1971.

Pastor C. Fischer Pastor

NO. 212 F. D. P. MURPHY CO., NEW YORK

Exhibit No. 1

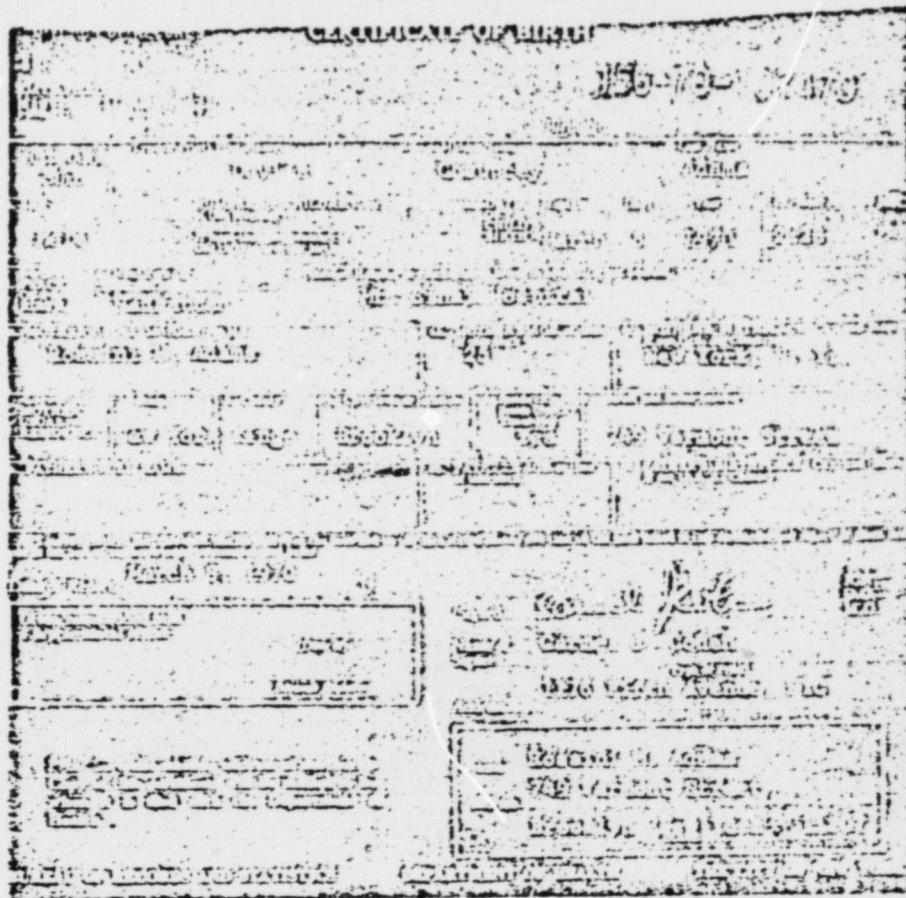
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which will be a pleasure to you all. I am very much obliged.

Signature PLG R

THE CITY OF NEW YORK—DEPARTMENT OF HEALTH
BUREAU OF RECORDS AND STATISTICS
CERTIFICATE OF BIRTH REGISTRATION

85



ABOVE IS AN EXACT COPY OF A CERTIFICATE OF BIRTH WHICH HAS BEEN REDACTED. PLEASE FURNISH THE BUREAU OF RECORDS AND STATISTICS WITH THE CORRECT INFORMATION TO THE BUREAU. YOU MAY DO THIS BY MAIL OR IN PERSON. PLEASE USE THE ADDRESS BELOW. YOU ALSO MAY APPOINT A PERSON TO DO THIS FOR YOU IF YOU PREFER. PLEASE DO NOT DO THIS AT HOME.

WARNING: IT IS A CRIME TO FURNISH FALSE INFORMATION TO THE BUREAU OF RECORDS AND STATISTICS. IT IS ALREADY PROVIDED IN THE LAW THAT IT IS A CRIME TO FURNISH FALSE INFORMATION TO THE BUREAU OF RECORDS AND STATISTICS.

NOTE: IN ISSUING THIS DOCUMENT, THE BUREAU OF RECORDS AND STATISTICS DOES NOT MAKE ANY STATEMENT AS TO THE FACTS AS TO WHICH IT WAS ISSUED.

MANHATTAN — EIGHT STREET

BROOKLYN — EIGHT STREET

BEST COPY OBTAINABLE

Exhibit No. 12

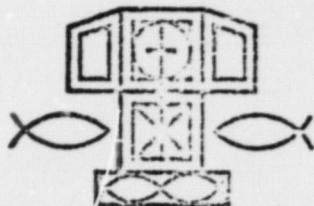
Name: _____

A/N: _____

I certify that this is a true and exact copy of a document which appears to be genuine and unaltered.

Date: 8/20 Signature: G. Saff
ENY DO Title: OT

Certificate of Baptism



CHURCH OF ST. GABRIEL, THE ARCHANGEL
749 Linwood Street
Brooklyn, N.Y. 11208

* This is to Certify *

That Dominick
Child of Peter McNamee
and Edgar McNamee
born in Brooklyn
on the 8th day of March 1971

* Was Baptized *

on the 7 day of March 1971

According to the Rite of the Roman Catholic Church

by the Rev. John J. Capillo
the Sponsors being Joseph McNamee
and Agathe McNamee as appears

from the Baptismal Register of this Church.

Dated 27 May 1971

Rev. John J. Capillo Pastor.



DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION

Form approved.
Budget Bureau No. 72-R0442

STATEMENT OF CLAIMANT OR OTHER PERSON

NAME OF WAGE EARNER OR SELF-EMPLOYED PERSON <u>Peter McQuinn</u>	SOCIAL SECURITY NUMBER <u>054-22-7753</u>
NAME OF PERSON MAKING STATEMENT (If other than above wage earner or self-employed person) <u>Fiscani Diana</u>	RELATIONSHIP TO WAGE EARNER OR SELF-EMPLOYED PERSON <u>Peter's mother</u>
NOTICE.—Whoever makes or causes to be made any false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act is subject to not more than a \$1,000 fine or 1 year of imprisonment, or both.	

Understanding that this statement is for the use of the Social Security Administration, I hereby certify that—

Peter McQuinn and I started living together at the beginning of June, 1969. I did not sleep with him all the time. They had arguments and I would go back ~~again~~ to my mother's house to live for a while.

From June until January, 1970 he always supported me. He gave me money whenever I needed it. He did not give me money in a regular payment basis. He gave it to me as I needed it. After a ~~month~~ ~~month~~ from his death

I went back home. During the time I was living with my mother he allowed me money if I needed any.

I had saved some money

and so did not read back them ~~her~~
any during the time before the
death that the wife ~~was~~ substituted.

He never denied that I when cashing
his check. He had planned to
pay for my hospital stay and
to reward ~~for~~ her after she was
in pain this long.

Since ~~James~~ Peter McQuinn Sr. has
consented to William's request.
He is temporarily owing a debt for me -
he sends money ~~which~~ we need it.
He left today and his brother Charlie
says MR. McQuinn at their home
of Tucson - Channel 7 Post Office
144 1st St., NYC - phone 582-2383.
I have no written statement by Peter
McQuinn to Bill. Cecil -

Knowing that anyone making a false statement or representation of a material fact for use in determining a right to payment under the Social Security Act commits a crime punishable under Federal law, I certify that the above statements are true.

SIGNATURE OF WITNESSES

If this statement has been signed by mark (X), two witnesses who know the person making this statement must sign below, giving their full addresses.

1. Signature

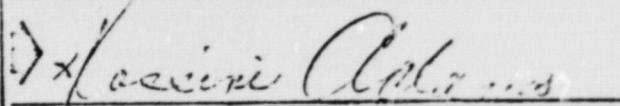
Address (Number and Street, City, State, and ZIP Code)

2. Signature

Address (Number and Street, City, State, and ZIP Code)

SIGNATURE OF PERSON MAKING STATEMENT

Signature (Write in ink—First, Middle Initial, Last name)


James Peter McQuinn

Mailing address (Number and Street, Apt. No., P.O. Box or Rural Route)

City	State	ZIP Code
------	-------	----------

Date (Mo., Day, and Year)

8/5/70

Telephone No. (If none available, write "None")



DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION

Form approved.
Budget Bureau No. 72-R0442

STATEMENT OF CLAIMANT OR OTHER PERSON

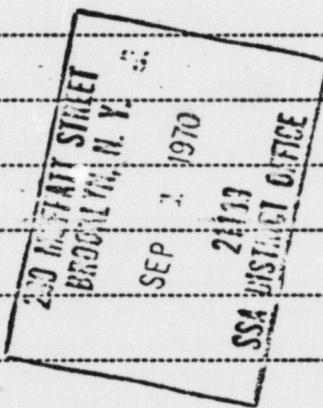
NAME OF WAGE EARNER OR SELF-EMPLOYED PERSON <i>Peter McSwain</i>	SOCIAL SECURITY NUMBER <i>054-22-7743</i>
NAME OF PERSON MAKING STATEMENT (If other than above wage earner or self-employed person) <i>Peter McSwain Jr.</i>	RELATIONSHIP TO WAGE EARNER OR SELF-EMPLOYED PERSON <i>Father</i>

NOTICE.—Whoever makes or causes to be made any false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act is subject to not more than a \$1,000 fine or 1 year of imprisonment, or both.

Understanding that this statement is for the use of the Social Security Administration, I hereby certify that—

I had no knowledge that my son Peter had a child born out of wedlock until after his death. After he died, a Rossini Adam approached me and advised me that she had a child of my son in her care. She was the mother of the child. I believed her, even though my son had not personally told me he was the father of this child. Mr. Adam told me she had taken out a small loan to help support the child. I agreed to pay one half of the loan, which I am doing now. I also give money occasionally to help

with the child's support.
 To the best of my knowledge,
 my son never acknowledged this
 child in writing or told
 anyone verbally that the
 child was his, but I
 believe the child is my
 son and I am helping
 with its support since my
 son is now dead.



Knowing that anyone making a false statement or representation of a material fact for use in determining a right to payment under the Social Security Act commits a crime punishable under Federal law, I certify that the above statements are true.

SIGNATURE OF WITNESSES

If this statement has been signed by mark (X), two witnesses who know the person making this statement must sign below, giving their full addresses.

1. Signature

Address (Number and Street, City, State, and ZIP Code)

2. Signature

Address (Number and Street, City, State, and ZIP Code)

SIGNATURE OF PERSON MAKING STATEMENT

Signature (Write in ink—First, Middle Initial, Last Name)

Peter J. Phillips

Mailing address (Number and Street, Apt. No., P.O. Box or Route)

3309 31st Av.

City

State

ZIP Code

Astoria, N.Y.

11106

Date (Mo., Day, and Year)

Telephone No. (If none available, write "None")

SEP/31/70

RH-6-3721

WE
CAN
HELP

PODEMOS
AYUDARLO



Community
Action for
Legal
Services, Inc.

NYPC MAY 14 1971

91

335 Broadway New York, New York 10013 (212) 966-6600
Thomas M. Quinn, Chairman John DeWitt Gregory, Counsel

RECONSIDERATION

May 6, 1971

John A. McConnachie
Regional Representative
Department of Health, Education
and Welfare
Social Security Administration
Payment Center
Flushing, New York 11368

Re: 054-22-7783
Peter McGinn

Dear Sir:

In accordance with my letter to you of April 2, 1971, in which, as attorney for Rossini Adams, I requested reconsideration of your refusal of benefits to her infant son Devlin C. Adams, I am herewith enclosing additional evidence, to wit:

- a) Affidavit of Rossini Adams
- b) Affidavit of Peter McGinn, Sr.

It is our contention that Devlin C. Adams is entitled to survivors benefits due to the death of his father, Peter McGinn, Jr. While Mr. McGinn, Jr., was not married to Miss Adams, and while he never acknowledged paternity, the existing evidence establishes that he was indeed the father of the child and that it was only his own untimely death which prevented him from acknowledging this. In truth, there was no occasion for him to formally acknowledge paternity prior to the child's birth. Therefore this is the type of case intended to be covered by 42 U.S.C.A. § 416 (h) (3) (c) (ii), which permits proof of paternity by "evidence satisfactory to the Secretary" that the applicant was the child of the insured, and that the insured was "living with or contributing to the support of the applicant."

The available evidence should establish quite satisfactorily that the quoted requirements are met. In addition to the affidavit of the applicant's mother, which

Exhibit No.

16(7)

speaks for itself, there is the affidavit of the insured's father which also states, without any doubt, that the insured was the father of the applicant.

It would be incredible, in the face of the two affidavits, to conclude that the insured was not the applicant's father, or did not "live with", or contribute to his support. To reach such a negative conclusion one would have to find not only that the applicant's mother, Miss Adams, was lying, but that the insured's father was also lying. Both of these affiants were very close to the insured, and both loved him dearly. Both were horrified when he was tragically murdered while still a young man. Are we to believe that not only either, but both of them would lie (and lie in a way that would sully the insured's good name) in order to gain the admittedly limited amount of insurance money at stake here? To stress the point, if you do not believe that the insured's father is telling the truth then you are in effect saying that he, a religious Roman Catholic, held a baptismal celebration for a child allegedly his grand-son when that was not in fact the case!

Surely no reasonable person could conclude that the affiants are telling anything but the truth, and that Devlin C. Adams is in fact the child of the insured.

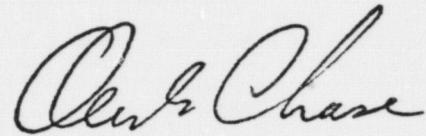
But was the insured "living with or contributing to the support of" the applicant, as required by the Social Security Act? Here again, the answer is yes. Under the doctrine of Wagner v. Finch, 413 F 2d 267 (Fifth Cir. 1969), a case which involved the exact situation present here, an unborn infant is living with the father for purposes of the statute if the mother and father live together prior to the infant's birth. Again, it is established by uncontraversed evidence that this was the case.

Finally, we ask that you consider the equities of this situation. A young, hard-working woman had a child by a man, who, though not legally married to her, loved her and would have raised the child with her. But fate, in the guise of a vicious criminal, took his life before the child was even born. Still shocked by this experience the mother, now back at work, but earning only a small salary, applied for the benefits to which her child is entitled. Has she not suffered enough? Is there any reason, legal, moral, or equitable, to deny her son these benefits which could perhaps give him a better chance in life? We respectfully ask that

- 3 -

the initial determination denying the benefits be reversed,
and that justice at last be done.

Sincerely,



OSCAR G. CHASE
Assistant Gen. Counsel

ROSSINI ADAMS, being duly sworn, deposes and says:

1. She is the mother of Devlin C. Adams, a son born to her and Peter McGinn, Jr., on March 8, 1970.

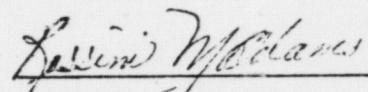
2. Peter McGinn, Jr., was tragically murdered on February 18, 1970, and was therefore never able to officially acknowledge that he was the father of Devlin C. Adams, born less than a month after his death. Nonetheless, during his lifetime he freely and openly acknowledged that deponent's unborn child was his natural child, and he stated openly and freely his intention to care for his child and to provide it financial support. Moreover, for at least six months prior to his death your deponent lived with Peter McGinn, Jr., at his apartment at 44 West 56th Street, New York City, where he paid the rent. During this time he also contributed financially to deponent's living costs and to her medical expenses connected with the birth of her son, Devlin.

3. Other than Social Security benefits, Peter McGinn, Jr., left no insurance policies or estate which might be used as a source of funds for his child. However, the child's paternal grandfather, Peter McGinn, Sr., helps out financially as much as his limited means allow.

4. Deponent is unmarried. She is employed on a full time basis as an assistant bookkeeper at a weekly salary of \$151.01. Naturally she incurs substantial child care expenses. She also has incurred substantial medical expenses because her son, Devlin, has developed an asthmatic condition which requires extensive medical treatment. Deponent receives no public assistance of any kind. As may be imagined her financial situation is extremely difficult, but she is determined to do her best for herself and her son.

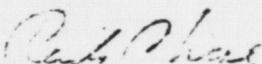
5. Deponent knows as an absolute certainty that Mr. McGinn, Jr., was the father of her child. Mr. McGinn, Sr. the child's grandfather, knows it. Many friends and relatives

know it. All that is lacking is the official acknowledgment which the father's untimely demise has prevented from ever existing. She asks that the Social Security Administration have the decency and understanding to award her child the survivor benefits to which he is entitled. She further asks that she be given an opportunity to present her case in person at a hearing, if necessary.



ROSSINI ADAMS

Sworn to before me
this 21st day of April, 1971

_____
NOTARY PUBLIC

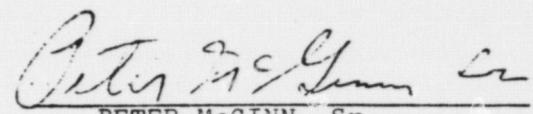
Ruth Place
Notary Public
Commission Expired March 30, 1973

STATE OF NEW YORK)
County)
CITY OF NEW YORK)

PETER McGINN, Sr., being duly sworn, deposes and says:

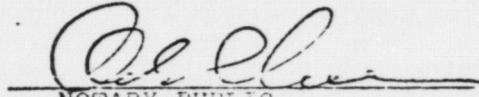
1. He is the natural father of Peter McGinn, Jr., deceased.
2. He is the natural grandfather of Devlin C. Adams, son of Peter McGinn, Jr., and Rossini Adams.
3. He has known Rossini Adams since May, 1969. He became friendly with her because his said son was involved in a close personal relationship with her and they often saw deponent at home and at his place of business. It is deponent's understanding that Miss Adams lived with his son at his apartment for several months prior to his death.
4. On or about January, 1970, he was informed by his said son that he (the son) was to be the father of a child which would be born to Rossini Adams. His son told him that although he was not sure that he and Miss Adams would marry, he was planning to care for, support, and in every way be a father, publicly and privately, to his as yet unborn child. His said son and Miss Adams continued to visit your deponent and continued their close personal relationship.
5. On or about February 18, 1970 deponent's son suddenly and tragically lost his life when he was shot to death by a vicious criminal. Devlin C. Adams, his grandson, was born on March 8, 1970.
6. Since his son's death deponent has tried as best he can to play a meaningful role in the life of his grandson, Devlin C. Adams, whom he has publicly recognized as such. He visits with the child as often as he can and tries to help out financially to the best of his limited ability. He is very

pleased that on March 7, 1971, he was able to attend his grandson's Christening and Baptism. He looks forward to a long and happy relationship with his grandchild.



PETER McGINN, Sr.

Sworn to before me
this 3rd day of April, 1971.



NOTARY PUBLIC

CHARLES W. FISHER
Notary Public State of New York
Hudson County
Qualified in Hudson County
Commission Expires March 30, 1973

REPORT OF CONTACT
(USE INK OR TYPEWRITER)

98

REVIEWING OFFICE

TO: NY P BIR CH SF DBS C FC SA

ACCOUNT NUMBER (and symbol)

354-22-7783

NAME OF WAGE EARNER OR SELF-EMPLOYED PERSON

Peter. McGinn

PERSON(S) CONTACTED AND ADDRESS(ES): WE CR SE PERSON

OTHER (Specify)

Peter McGinn 3309 31 Ave.

CONTACT MADE:

DO BO CS HOME PHONE:

OTHER (Specify)

DATE OF CONTACT

7/12/71

SUBJECT:

Mr. McGinn discussed statement of 8/7. He
He said he was upset at time. He felt statement made
to Mrs. Rosini Attorney was accurate reflection of
circumstances.

He added that his wife Stella (step mother of child)
Also had knowledge.

DO NOT WRITE IN MARGIN

Exhibit No. 17

SIGNATURE

J. Hirsch

CR

FR

SR

CLAIMS CLERICAL

DATE OF REPORT

7/12/71

PAGE 1 OF



DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION

Form approved.
Budget Bureau No. 72-R0442

STATEMENT OF CLAIMANT OR OTHER PERSON

NAME OF WAGE EARNER OR SELF-EMPLOYED PERSON Peter McGinn	SOCIAL SECURITY NUMBER 054-22-7783
NAME OF PERSON MAKING STATEMENT (if other than above wage earner or self-employed person) Rossini Adams	RELATIONSHIP TO WAGE EARNER OR SELF-EMPLOYED PERSON Mother of C.

NOTICE.—Whoever makes or causes to be made any false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act is subject to not more than a \$1,000 fine or 1 year of imprisonment, or both.

Understanding that this statement is for the use of the Social Security Administration, I hereby certify that—

I met Mr. Peter McGinn at a party in late 1968. We became serious about each other in early 1969 and began living together in early 1969. I think it was February.

Mr. McGinn and I lived together at the West 54th Street address for the most part of the time between 2/69 and 2/70. We had had a disagreement about a month before his death and I had gone to live with my family. To the best of my knowledge, Mr. McGinn was living at the West 54th address at the time of his death, although he may have maintained another apartment.

We were still maintaining the West 54th Street apartment as our apartment at the time of his death.

I cannot be any more precise about the exact dates I was at the West 54th Street address other than to say I was there for most of the time between 2/69 and 2/70.

During the brief periods of time between 2/69 and 2/70 that Mr. McGinn and I were separated Mr. McGinn gave me any money I needed personally since we saw each other all the time.

I cannot give you the names of any neighbors, employees in the building or others in the neighborhood that knew Mr. McGinn.

100

and I were living at the West 54th Street address. Mr. McGinn

rented the apartment, the landlord and I never met. There are mutual friends of Mr. McGinn and I who knew we were living together.

I never discussed my private life with the physician who was seeing me between 2/69 and 2/70. He was not aware of who I was living with. I know of no relatives on Mr. McGinn's side of the family that knew that we were living together. However, several of Mr. McGinn's relatives knew that Mr. McGinn and I were having a close personal relationship and may very well have known that we were living together. Mr. John McGinn, Peter's brother and Mr. Charles McGinn, Peter's uncle, both knew that Mr. McGinn and I were having a close personal relationship. I do not know their addresses. Mr. Peter McGinn Sr. probably knows their addresses.

Mr. McGinn never signed any papers stating he would pay for any of the expenses incurred through the birth of our child. He made verbal commitments to pay the expenses.

I have made all of the above statements after consultation and with the consent of my lawyer, Mr. Chase. Mr. McGinn and I lived together at 44 West 54th Street, not 44 West 56th Street.

The 56th Street entry in my affidavit was an error in typing.

Knowing that anyone making a false statement or representation of a material fact for use in determining a right to payment under the Social Security Act commits a crime punishable under Federal law, I certify that the above statements are true.

SIGNATURE OF WITNESSES

If this statement has been signed by mark (X), two witnesses who know the person making this statement must sign below, giving their full addresses.

1. Signature

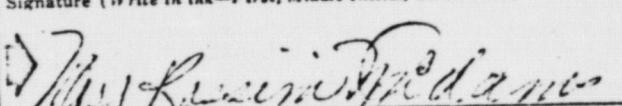
Address (Number and Street, City, State, and ZIP Code)

2. Signature

Address (Number and Street, City, State, and ZIP Code)

SIGNATURE OF PERSON MAKING STATEMENT

Signature (Write in ink—First, Middle Initial, Last Name)


Mrs. Francis McGinn

Mailing address (Number and Street, Apt. No., P.O. Box or Rural Route)

749 Vermont Street

City	State	ZIP Code
BROOKLYN	NY	11207
Brooklyn, N. Y.		Telephone No. (If none available, write "None")

Date (Mo., Day, and Year)

Telephone No. (If none available, write "None")



DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION

STATEMENT OF CLAIMANT OR OTHER PERSON

NAME OF WAGE EARNER OR SELF-EMPLOYED PERSON <u>Peter McGinn</u>	SOCIAL SECURITY NUMBER <u>054-22-7783</u>
NAME OF PERSON MAKING STATEMENT (If other than above wage earner or self-employed person) <u>Rossini Adams</u>	RELATIONSHIP TO WAGE EARNER OR SELF-EMPLOYED PERSON <u>Mother of C</u>

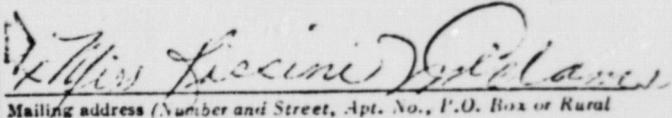
NOTICE.—Whoever makes or causes to be made any false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act is subject to not more than a \$1,000 fine or 1 year of imprisonment, or both.

Understanding that this statement is for the use of the Social Security Administration, I hereby certify that—

In connection with Mr. Peter McGinn Sr., ^{I allegedly am} apparently

conflicting statements about the paternity of my child, I would like the records to show that Mr. Peter McGinn Sr. was present at the baptism of his grandson and fully acknowledged Devlin as his grandson by taking part in the baptism ceremony.

Knowing that anyone making a false statement or representation of a material fact for use in determining a right to payment under the Social Security Act commits a crime punishable under Federal law, I certify that the above statements are true.

SIGNATURE OF WITNESSES	SIGNATURE OF PERSON MAKING STATEMENT		
If this statement has been signed by mark (X), two witnesses who know the person making this statement must sign below, giving their full addresses.	Signature (Write in ink—First, Middle Initial, Last Name)		
1. Signature			
Address (Number and Street, City, State, and ZIP Code)	Mailing address (Number and Street, Apt. No., P.O. Box or Rural Route) 749 Vermont Street		
2. Signature	City	State	ZIP Code
Address (Number and Street, City, State, and ZIP Code)	Brooklyn,	N. Y.	11207
	Date (Mo., Day, and Year)	Telephone No. (If none available, write "None")	



DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION

Form approved.
Budget Bureau No. 72-R442.3.

103

STATEMENT OF CLAIMANT OR OTHER PERSON

NAME OF WAGE EARNER OR SELF-EMPLOYED PERSON
McGinn, Peter

SOCIAL SECURITY ACCOUNT NUMBER
054-22-7783

NOTICE.—Whoever makes or causes to be made any false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act is subject to not more than a \$1,000 fine or 1 year of imprisonment, or both.

Understanding that this statement is for the use of the Social Security Administration, I hereby certify that—

1. I'm not married now and I have never been married.
2. The father's name is not shown on the birth certificate because the rules of the N.Y.C. Bd of Health would not allow it.
3. I left some of my clothes and other personal effects in the apartment when Mr. McGinn and I separated a month before his death.
4. Mr. McGinn and I had not firmly established whether we would resume living together at the time of his death. The question was up in the air at the time of his death. However, I'm almost positive that we would have resumed living together, especially considering the birth of the child.
5. Mr. McGinn made cash payments to me toward my general support and medical bills both during the period we lived together and after our separation. All payments were made by Mr. McGinn to me in cash. I have no receipts or other documents for these payments. I would have been unable to pay all of the medical expenses I incurred during the period without Mr. McGinn's assistance.

Knowing that anyone making a false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act commits a crime punishable under Federal law, I certify that the above statements are true.

If this statement has been signed by mark (X), two witnesses who know the person making this statement must sign below, giving their full addresses.

1. Name

Address (Street number, City, State, and ZIP Code)

2. Name

Address (Street number, City, State, and ZIP Code)

Signature (Write in ink—First, Middle initial, Last Name)

Mailing address (Number and Street, P.O. Box or Rural Route)

—
Cat

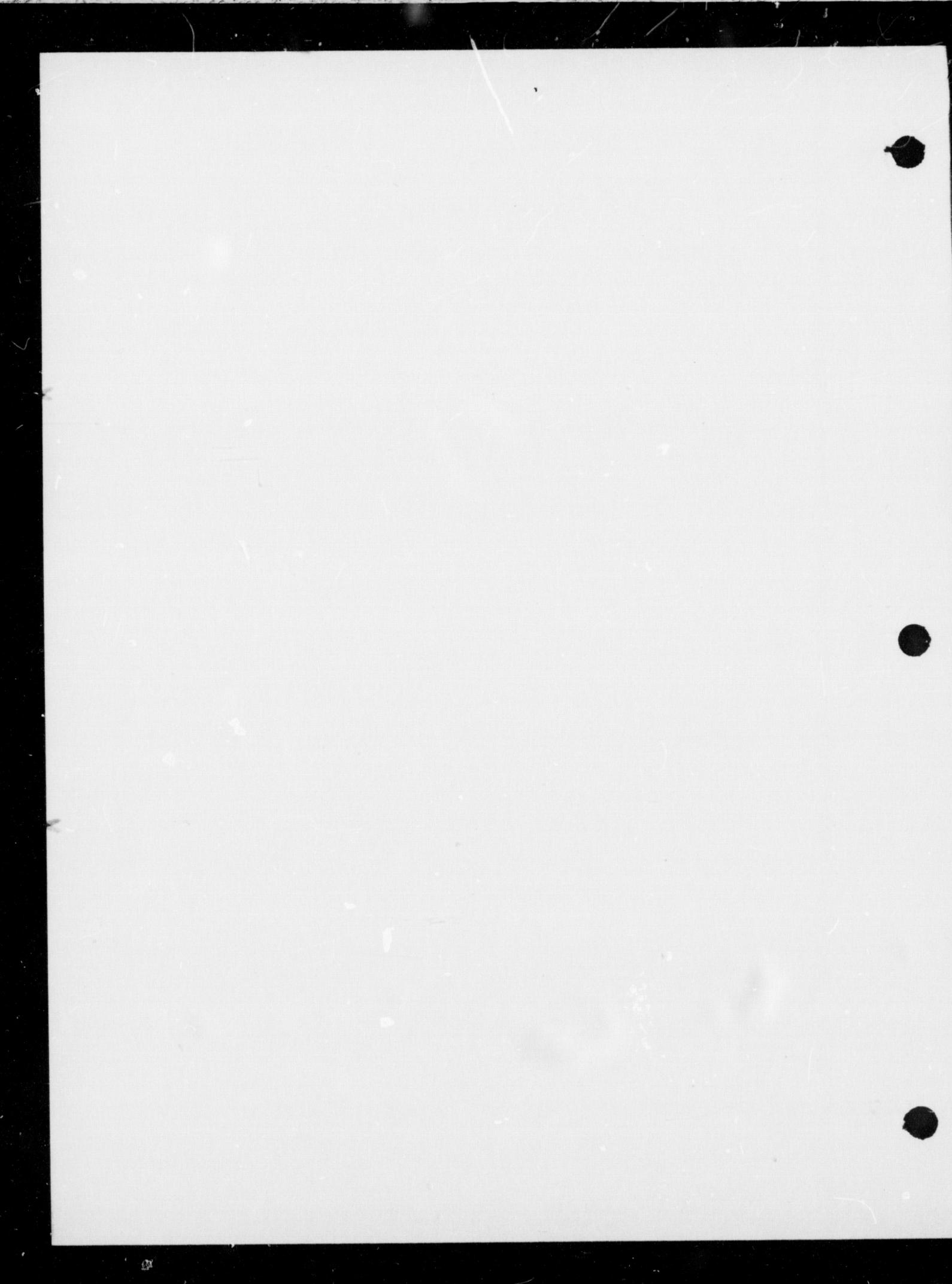
State

ZIP Code

Date (Mo., Day, and Year)

Telephone No. (If none available,
write "None")

949 (5-2)



REPORT OF CONTACT
(USE INK OR TYPEWRITER)

ACCOUNT NUMBER (and symbol)

200
054-22-7783

REVIEWING OFFICE

TO: NY P BIR CH KC SF DBS DFC SA

NAME OF WAGE EARNER OR SELF-EMPLOYED PERSON

Peter McGinn

PERSON(S) CONTACTED AND ADDRESS(ES): WE OR SE PERSON OTHER (Specify)

CONTACT MADE:

DO BO CS HOME

X PHONE:

OTHER (Specify)

DATE OF CONTACT

1/21/71

SUBJECT:

Mrs Joseph Hopkins

Spoke with Mrs Hopkins re:
"C"-Peter McGinn! He and his
husband were the child's sponsor
at his baptism.

Mrs Hopkins stated that her husband had ever met
the deceased W.E. She said that
they have spoken over the phone
(not regarding the child, however)
but the question of paternity was
never discussed.

She also had no knowledge
whatever of the support provided
by the DIME on behalf of ~~his~~ the
child.

DO NOT WRITE IN MARGIN

SIGNATURE

DISTRICT OFFICE

G. J. McNamee
117

Exhibit No.

20

CR FR SR CLAIMS CLERICAL
 OTHER (Specify)

DATE OF REPORT

1/21/71
PAGE 1 OF 1



